STUDIES IN ECONOMICS AND POLITICAL SCIENCE

EDITED BY THE DIRECTOR OF THE LONDON
SCHOOL OF ECONOMICS AND POLITICAL SCIENCE

No. 19 in the Series of Monographs by Lecturers
and Students connected with the London
School of Economics and Political Science

THE POLITICAL DEVELOPMENT OF JAPAN

1867–1909

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1867–1909

BY

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LONDON
CONSTABLE & CO. LTD.
1910

Printed by BALLANTYNE, HANSON & Co.
At the Ballantyne Press, Edinburgh

TO

MY FRIENDS

U. OTA AND M. FURUYA

The work is a Thesis which was, under the title of *An Examination, Statistical and Historical, of the Form taken by he Development of Representative Institutions in Japan since the Restoration of 1867*, submitted to the University of London in December 1909, and approved by it as a thesis for the Doctor of Science in the Faculty of Economics.

PREFACE

It is the purpose of this volume to trace our constitutional movement, which led to the promulgation of the Constitution and the introduction of representative institutions, and their subsequent development. As its scope and plan are to be seen in the Contents together with the Chronology at the beginning, I take this opportunity to express my thanks to those who particularly helped me with information, criticism, and suggestions.

First of all, I am peculiarly indebted to my teacher in the London School of Economics, Mr. Graham Wallas, who not only first suggested the work, but gave much valuable advice during my pursuance of research, and also read the whole manuscript.

I am under obligation to Mr. Kametaro Hayashida, Chief Secretary of the House of Representatives, who furnished me with many facts and valuable information. It also affords me pleasure to record my indebtedness to Mr. Shigeyoshi Kudo's *Teikoku Gikwaishi* and *Gikwai Shiko*, which I have used to a considerable extent.

Finally, I offer my sincere thanks to Mrs. Edwards, Miss Wallace, and many other friends for their assistance.

April 2, 1910.

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1899. An Increased Land Taxation Bill passed.
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INTRODUCTION

THE POLITICAL DEVELOPMENT OF JAPAN, 1867–1909

CHAPTER I

THE NATION AND ITS POLITICAL MIND

TO understand the form and working of the political institutions of a country, it is necessary to keep constantly in mind the people and their political psychology. Primarily, it is not the government that makes the nation, but the nation that makes the government. Practical efficiency and soundness of government are more concerned with the public spirit and political morality of the people than the form and constitution of the government. "God save the King!" touches the heart of an Englishman and irresistibly produces a profound thrill and inspiration. It is to this sentiment of the English people, to their love and respect for the old traditions, and to the conservative habits of their mind that England owes not only the preservation of a monarchical form of government, but also the practical efficiency and soundness of her government, in spite of certain illogical anomalies of the Constitution—upon the efficiency and soundness of which a doctrinaire idealist of the French school often looks with an envious eye. There is a political philosophy in what Bagehot said, that "Cabinet government is possible in England, because England is a deferential country."[1]

> "Love thou thy land, with love far brought
> From out the storied Past, and used
> Within the Present, but transfused
> Thro' future time by power of thought."[2]

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[1] *English Constitution*, Amer. ed., p. 6.

[2] Tennyson's "On a Mourner."

rupted domestic existence for five-and-twenty centuries, she developed characteristics so salient that in studying her annals there is forced upon our attention a continuity of easily synthesised traits."[1]

The Japanese nation of to-day, like many other nations, is, psychologically speaking, the summed-up product of its own past—the past which, in the last analysis, is to a great extent attributable to the influence of the natural phenomena of the country. "The diversity of races," says Bluntschli, "is due to Nature's creative energy."[2] M. Emile Boutmy expresses a similar idea more definitely: "Among the influences which mould a nation, natural phenomena have most weight and efficacy; such phenomena, for instance, as the shape of the country, the relative position of mountains and rivers, of land and sea, the mildness and severity of the climate, and the abundance and scarcity of the fruits of the earth. These influences are as old as mankind; going back over centuries, we find no period when they are non-existent. They have not varied to any extent, and, if a change has taken place, it is in man himself, subject as he now is to an infinity of other impressions. In the beginning they were almost the sole forces acting upon newly created and sensitive beings, and thus produced effects which to-day we deem improbable. Such monuments—customs, laws engraved on stones, religious rites, epic poems, &c.—were, even in the beginning, the products of physical environment, and it was in the course of time only that, having acquired consistency and individuality, they themselves became capable of engendering impressions and modifying the effects of the great natural influences."[3]

A glance at the map reveals why Japan led such an isolated and independent life. The water that separates her from the Asiatic continent protected her from foreign invasions, and, making both emigration and immigration difficult at an age when iron-clad leviathans were unknown, preserved the unity of the race within her own boundaries. Thus, without the racial discord and prejudices which tend to cause social disintegration, freed from all external pressure, and unencumbered with the heavy burden of national defence (from which all modern nations suffer severely), the inhabitants of Japan were able to form a consolidated State within their limited territorial boundaries; and both the governing and the governed were able alike to devote their energies to the promotion of the welfare and the prosperity of the whole nation. A retrospect of many centuries furnishes no trace of civil wars or of struggles which might have threatened the unity and solidarity of the nation. Although, early in the Middle Ages, Japan witnessed many bloody conflicts between Court nobles, and, during the military *régime*, from the twelfth to the sixteenth century, sanguinary internecine struggles among the powerful feudal lords, or *daimios*—struggles which resemble the Wars of the Roses in England—yet the nation as a whole, being undivided, maintained the same unity and cohesion as before.

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[1] *China and Japan*, vol. i. chap. iii. p. 50.

[2] *The Theory of the State*, second ed., Book II. chap. i. p. 84.

[3] *The English People*, Part I. chap. i. pp. 3, 4.

In the whole history of Japan there is but one instance of foreign invasion. Towards the end of the thirteenth century, Kublai Khan, having subdued the Chinese and Korean Empires, and being ambitious to add Japan to his conquests, despatched the most formidable fleet ever seen in Japanese waters, except that of Admiral Rozhdestvensky; but, contrary to his expectations, the entire squadron met, off the shores of the Kiushiu Island, with the same fate as the Spanish Armada in the English Channel.

It is needless to say that the influence of climate on the life and growth of a nation is not less important than the geographical formation of the country. No great nations have ever sprung up in the lands now inhabited by Eskimos, Negrillos, Bushmen, Negroes, and Papuans. The extreme coldness of the north overtaxes human energies, while the intense heat of the south hardly gives a sufficient stimulus to activity.

The dragon-shaped islands of Japan, extending over a distance of about 1680 miles in the direction of greatest length, between latitude 45°.35 and 31°, and longitude 130°.31 and 146°.17, while the greatest width is less than 200 miles, have a very varied climate, but the variation is not as great as that of the latitude—a characteristic of all maritime countries. Nowhere in the world is the climate more inviting than in Japan; the blue sky, the brilliant sunshine, the invigorating air, combined with the picturesque scenery, are exceedingly attractive and fascinating to the æsthetic mind of man. But the climate is not so mild as may be imagined; the maximum and minimum temperatures are more extreme than in England, and yet they are not such as to enervate or depress man's activity. Nature speaks to the Japanese in the same fashion as to Englishmen. "If you relax your efforts, destruction will overtake you; but if you take pains, your reward will be thousandfold."[1] There is no controversy or difference of opinion among the many critics of the Japanese, from William Adams and Kaempfer to a French count who wrote, "Le Japonaise n'est pas intelligent;" all agree that the Japanese are an active, industrious, and hardy people.[2] Self-preservation forces them to exercise and develop these qualities.

Under the feudal *régime*, even those *samurais* who engaged in unproductive business and endured none of the hardships connected with trade, agriculture, and industry, systematically developed their muscle and brain by a severe training in the art of fencing, wrestling, and *jūjitsu*. It would seem that for the Japanese Nature has been a school of initiation in activity, Stoic sternness and perseverance, foresight, and self-control—qualities which the Japanese soldiers so admirably displayed in Manchuria, qualities which have enabled Japanese statesmen again and again to save critical political situations from degenerating into mere passionate turmoils, and the qualities without which Japan could not have made such amazing progress in the Meiji era.[3]

Sometimes the expounders of Bushido, of Confucianism, and of Buddhism in Japan attribute the virtues of the Japanese solely to their religious and ethical culture, ignoring altogether the influence of natural phenomena, by which alone the peculiar traits of a nation can ultimately be explained. There is no doubt that ethical and religious teaching plays an important part in deepening the characteristic national traits—originally due to natural environment—which are indispensable to social progress, while it tends to weaken those tendencies which are anti-social in their essence. But that the force of Nature has precedence of ethical and religious teaching in the formation of racial traits is almost indisputable.[1] The force of Nature alone can explain the other characteristics of the Japanese, such as love of beauty, proneness to sentimentalism, susceptibility to impulse, simplicity, vivacity, fickleness, &c., which are as prominent in the Japanese people as in the Latin races of Southern Europe.

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[1] Boutmy, *The English People*, p. 5.

[2] Chamberlain, *Things Japanese*, p. 226.

[3] Meiji is the year name which marks the inauguration of the reign of the present Emperor. It literally means "enlightened government."

Now we come to the last and most important point which remains to be considered in reference to the natural phenomena of the country. It is their effect upon the economic condition of the people. There is no more vital and fundamental question to any living being than that of subsistence. The life, growth, and character of a nation are largely a reflex of its economic condition.

It is the insularity of Japan which has protected her from foreign invasions; and it is the varied geographical and topographical formations coupled with the favourable climate that have enabled her to maintain a large population within her own borders. The abundance and the variety of the fauna and flora of Japan not merely produced a sufficient supply for the sustenance of her inhabitants, but also met the demands of an ever-increasing population, whose desires multiplied as civilisation advanced. In fact, Japan, until forced to open up intercourse with the Western nations about sixty years ago, was sufficiently productive to feed, shelter, and clothe thirty millions of people. The fact that she was for thousands of years a completely self-sustaining nation needs serious consideration in studying her recent development. Of course, no mechanical inventions capable of producing the intense social pressure of European industrial life had as yet been introduced into Japan. A simple manner of living corresponding to the domestic stage of industry, combined with the absence of cut-throat competition, gave, on the one hand, no great impetus to enormous accumulations of private or of national wealth, and, on the other hand, maintained a fair distribution of comfort among all classes of the people, which prevented the depravity and squalor of the European slums. Japan in 1867 had neither tenement houses, nor sweated industries, nor hunger marchers, nor underfed children, and it is these which are the worst enemies to the progress and of the unity and solidarity of a nation.[1]

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[1] In the Congress for the History of Religion at Oxford, Mr. A. E. Crawley said: "In individual and social life, it (religion) was rather a secondary than a primary cause. . . . Sociologically, religion was a reflex of economic needs and their satisfaction; one of its main lines of action was in connection with subsistence as being the most important side of adaptation to environment."—*The Times*, 19th September 1908, p. 10.

The first Minister Plenipotentiary from the Court of St. James', Sir Rutherford Alcock, in 1863 said: "Here in outward form we have feudalism . . . in which the feudal lord is everything and the lower and labouring classes nothing. Yet what do we see? Peace, plenty, apparent content, and a country more perfectly and carefully cultivated and kept, with more ornamental timber everywhere than can be matched even in England. The laws, so far as we know, are somewhat Draconian in their severity, and administered unflinchingly by the very simplest and most direct process, without the aid of lawyers. . . . On the other hand (we see) the material prosperity of a population, estimated at thirty millions, which has made a Garden of Eden of this volcanic soil, and has grown in numbers and in wealth by unaided native industry, shut out from all intercourse with the rest of the world."[2]

Even under the feudal *régime* there was no land monopoly in the hands of a few nobles and barons as in feudal England; from very early times a system of small holdings was prevalent, and consequently Japan never had serfs or slaves attached to the land as was the case in the Western world. Of course, every *daimio*, or feudal lord, possessed a certain territory allotted to him by the Shogun (the central administrative chief), and governed it absolutely; but in theory he was simply the administrative head of the district, and therefore never interfered with the ancient customary land-tenure.

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[1] "We have now to go through the reaction from that indiscriminate application of the theory of *laissez-faire*, which has left us the disastrous legacy of *multitudes* badly born, badly taught, badly fed, and finally robbed of employment. They have been sacrificed to the mythical entity known as 'the consumer,' as if the consumer were anything but the whole mass of the population. We have to go through a re-adjustment of values, and we shall find the process troublesome."—"Socialism in Great Britain." One of the leading articles, *The Times*, 7th January 1909, p. 7.

[2] *The Capital of the Tycoon*, vol. i. chap. xxi. pp. 440–441.

There was in Japan a system of social caste, a system often found side by side with a feudal *régime*. The social wall then existing between the lords and their retainers (*daimios* and *samurais*) and between the retainers and the peasants, &c., was almost impenetrable, like that now existing between the white and black races in the Southern States of America. However, the former was not, as in the case of the latter, formed by racial hatred, prejudice, and antipathy, but was simply the outcome of the specialisation of social functions in the course of evolution. Hence there hardly existed any ill-feeling between the different castes, in spite of certain social segregations, resulting from the difference of status and vocation, or prescribed by the accident of birth. Moreover, as even the people of the lowest caste were never deprived of the material necessities of life, nor reduced to the extremity of mere subsistence by the heartless struggle for existence, they were never so desperate as to rebel against the existing order of society, even if they were not fully satisfied with their own lot. That Japan under the feudal system had no extreme pauperism, though she had many poor, should not be forgotten in comprehending the totality of the potential energies of the nation. The Japanese as a race may be inferior to the Aryan, if the assumption of certain theorists of the so-called science of eugenics be true, but how happy is Japan in that she never had as an integral part of her population a stock of white race bred in the slums of the large cities of Europe and America!

It is the economic condition—unfair distribution of wealth—that is directly and chiefly responsible for the race suicide, the race deterioration, and the social disintegration which are silently undermining the social foundations of the civilised nations of to-day.

It is worth while to note how a true fellow-feeling in old Japan prevented the growth of extreme poverty and pauperism. The Japanese people, irrespective of their social caste, imagined and believed that they were all "Dobo," *i.e.* brothers and sisters, in the congenital sense of the term rather than the spiritual sense as used in religion. Take one or two instances and see the social life which prevailed in Japan. Dr. Simmons observes: "When one of the villagers fell sick, the members of his *kumi* gave him all possible assistance, and cultivated his land for him, if necessary.[1] But if this continued and the burden became too great, the *kumi-gashira* or *nanushi* was appealed to.[2] He represented the matter to the villagers, and they all contributed. Whenever a farmer built or repaired his house, his fellow-villagers joined and helped him without pay, the beneficiary giving wages only to the special artisans, such as carpenters and masons, but supplying food to all.[3] If he were very poor, even the carpenters and masons were paid from a village fund, used for such purposes and for emergencies of all sorts—fires, plagues, &c. Poor people, when some calamity destroyed their home, usually took refuge in a temple for a month or so. When a whole village was burned, the neighbouring villages turned out and helped, the lord and the large owners supplying wood *gratis*.

"If a stranger was taken sick on the road, he was cared for and forwarded by the *nanushi* to his home, if it could be ascertained. If a stranger was found dead, he was decently buried, and the *nanushi* of the *mura* was notified so that his friends might send for the body.[4] If he did not carry his *nimbetsu-cho* about him and no friends could be found, he was properly buried at the expense of the *mura*."[5]

Take another instance and see how the mercantile class, who were placed in the lowest scale of society, mutually prevented the ruin of their families. Such a custom prevailed among the members of a shipping association engaged between Tokyo and Osaka: "When a ship is lost," so the articles ran, "if the owner alone bears the loss, his whole estate is gone and his family is ruined. Hence, as such a disaster may in the course of time fall to the lot of any family, it is for the interest of each and all to unite and share the risks. Thus through each year there will be for every one a small expense, yet no one will suffer irretrievable ruin."[1]

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[1] *Kumi* was a group or company of five families, usually arranged by contiguity of residence, and serving as an administrative unit. The origin is not yet quite certain.

[2] *Kumi-gashira* was the head of a *kumi*. *Nanushi* was the head of a village.

[3] The custom is still prevalent in the country places.

[4] *Mura* is a village.

[5] Simmons and Wigmore, "Land Tenure and Local Institutions." Vide *Transactions of the Asiatic Society of Japan*, vol. xix. pp. 130, 131. *Nimbetsu-cho* is a birth certificate.

Thus old Japan, if viewed from the standpoint of social habits and customs and its economic condition, was like a big family. There, in Spencer's terminology, the law of the family seems to have prevailed rather than the law of the State. Dr. Simmons observes: "In old Japan society was a law to itself. Its civil rules went out and up from the people instead of down and upon them. Custom, matured by centuries of growth and experience, took the place of written codes of laws (except in the case of criminal laws), and a system of arbitration took the place of courts, judges, and lawyers. The rural communities were highly organised, and within certain broad limits were independent and democratic in the conduct and administration of their municipal affairs. The government of these was social rather that political, and their headmen, advisers, not rulers; arbitrators, not judges."[2]

Such being the state of society in old Japan, there were no systematised codes of civil rights and obligations, and no rigid formulæ of jurisprudence. This lack of legalism in Japanese civilisation is sometimes said to be due to a lower stage of culture, but the real cause seems to be the absence of "individualism" and of the "worship of the almighty dollar"—which are so prominent in Western civilisation. Most disputes concerning civil rights or obligations in Japan were settled mutually, as are those among the members of a family. An appeal to court in the case of a civil dispute was viewed with more disdain and disgust than a divorce case in modern society. Japan therefore has never suffered any violent constitutional revolution in the entire course of her national life, and was able to make slow but steady progress.

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[1] "Private Law in Old Japan," *Transactions of the Asiatic Society of Japan*, vol. xx. sup. Part I. p. 163.

[2] "The Spirit of Local Institutions," *Transactions of the Asiatic Society of Japan*, vol. xix. p. 49.

How is it, then, that a people accustomed only to such slow progress, and never subjected to the merciless struggle for existence, could make the marvellous advance which modern Japan has shown the world? What is at the root of the wonderful development and achievements of Japan?—development and achievements unparalleled in the history of the world, undreamed of by the great thinkers of the West, which are likely to serve in the future as a turning-point in the world's march of thought. Is it the race? Some anthropologists still think that the Japanese are an inferior race. What is it, then, that has made the remarkable history of modern Japan? Is it Bushido, or ancestor-worship, or Shinto, or Mikadoism, or Confucianism, or Buddhism?

Many attempts have been made to solve this riddle. Some ascribe it to the code of chivalry (Bushido); some to ancestor-worship or Confucianism, &c.; almost all, with certain minor differences, put the greatest emphasis on the ethical teachings of Japan. Doubtless all of these ethical and religious systems contributed much to the modern development of Japan. But the code of chivalry is not a monopoly of Japan; it prevailed in the Middle Ages in Europe, as Professor Freeman well explains; nor is Mikadoism—the doctrine of Divine Right of Kings; and ancestor-worship is almost a universal practice of mankind, leading Spencer to imagine it the root of all religions; so is Shinto, or animism, as Professor E. B. Tylor tells us; Confucianism prevailed in China and Korea as well as in Japan; Buddhism is the religion of almost the whole of the southern half of the Asiatic continent. Supposing, then, that any or all of these ethical and religious systems are at the root of the astonishing development of modern Japan, how can we account for the fact that these systems have produced upon the Japanese people alone impressions or effects so singular that they alone have manifested activities which are absent in other nations subjected to the same influences?

Mr. Benjamin Kidd failed to discriminate between the instrument and the force driving it, thinking the teaching of Christ to be the real root of democracy in Western civilisation. Christianity has no doubt played an important part in the development of democracy in the West, but it is not the fundamental force that produced democracy. It is similarly an error to over-emphasise the ethical and religious teachings of the Japanese nation as the chief and primary cause of its extraordinary progress in recent years.

The real origin, I am inclined to think, of the strenuous activities of the Japanese nation is their instinct of self-preservation, and the intensity and magnitude of these activities are mainly due to the psychological unity of the people, which is again a result of the homogeneity of the race, of common customs and traditions, and of a common spirit and thought—all the fruit of a long, secluded, and independent existence.

To accomplish a thing is first to determine to do it, whether the origin of the determination is due to impulse or to reason, and then to concentrate all energies upon it. A Japanese proverb says, "Determination is more than half accomplishment." Napoleon's military tactics were to concentrate his entire forces on a single point of attack. The rapid rise of Japan from the insignificant position of an extra-territorial nation to that of a first-class power is but the result of all the potential energies of her people concentrated on the common object they had in view, *i.e.* to preserve independence and to attain an equal footing with the Powers of the world.

To a Western people of migratory nature, Ego or I is the first of all things. They say, "I came out here, tilled the soil, and made my home." The case is quite different with the sedentary Japanese. The *Kokku-kwa*, or "country and home," stand to him before all things; they are to him a higher and greater reality than his "Self." He says, "It is the country and home that protected the life of my ancestors, and will do the same for me and my posterity."

Hence, loyalty to the Emperor, who is identical in the mind of the Japanese masses with the country, constitutes the basis of Japanese morality, while love forms the centre of the Western moral system—love that satisfies the individual "Self."

Comparatively speaking, Western people are, as a rule, subjective, both individually and also in the matter of the State, while the Japanese, viewed as a nation, are extremely subjective, but individually, as a rule, objective. The basis of Japanese morality is self-sacrifice, while that of the Western people is self-realisation.

The idea of self-sacrifice pervades the Japanese mind. In Japan everything is subordinated to the country and the home. To make this state of mind clear to the reader, I propose to examine the custom of marriage, one of the most important of social institutions. Even in marriage the love of the individual has no place beside the consideration of the Home.[1] Young people of England and America would be shocked, if they were told that boys and girls in Japan are not allowed to choose their life partners for themselves. The central idea of marriage in Japan is not the union of a man and a woman through love or passion, but a means of perpetuating the Home. To get an heir to the family was and still is considered by the majority of the people more important than quenching the passionate fire of youth. The Taiho Code provides that sterility on the part of the wife, or merely the failure of male issue, is a sufficient ground for divorce.[2] You may infer from this how important the perpetuation of the Home—unity of society—was considered in Japan. Thus marriage has been recognised as a social obligation rather than the culmination of love between a man and a woman. Hence the highest virtue in Japan is not "pure love," but, as in ancient Greece, duty to the State.

In such a country as the United States of America, which is formed of heterogeneous people in a vast territory of wide local variation, where the sentiment of "I," or individualism, dominates, it is a very difficult matter to get a consensus of public opinion, however important the question may be to the State. The drastic tactics of

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[1] Home means to a Japanese a perpetual institution; it is more than a mere family abode, or *chez moi*, or *domus*.

[2] The Taiho Code was compiled in the last year of Taiho (701 A.D.) in the reign of Emperor Mommu. This is usually considered by Japanese jurists as the beginning of the period of written, as distinct from customary, law. The Taiho Code was in force, slightly modified, however, by such Codes as the Yoro Ryo (718 A.D.) and the Engi Ryo (927), &c., until 1231, the year in which the *Teiei Shikimoku* appeared under the first feudal *régime*. But the spirit and quintessence of the Taiho Code permeated society, and remained through the feudal *régime* which was in power until 1867. Tomii's *Hoseishi*; Hatoyama's *Hoseiippan*.

President Roosevelt in sending the Atlantic fleet to the Pacific, necessitating an expenditure of twenty millions of dollars, in order to rally opinion in favour of more Dreadnoughts, may have been necessary in the United States. To get common action there you must first convince the people that their interests coincide, or are concomitant, with those of the State, for they come by a conscious process of reasoning, if they come at all, to recognise the importance of national affairs before their own individual interests. The sentiment of the "Fatherland" does not give them a mental picture which will set their nervous system in motion.

But the Japanese, though having, of course, considerable individual variation, are yet, speaking as a whole, a nation of one race and of one mind. Dwelling in the same place generation after generation with the same neighbours, speaking the same language, reading the same literature, worshipping the same deities, attending the same religious rites, they cannot help having the same mode of thinking and feeling. It is natural that the country where they were born, and where their ancestors lived from time immemorial, coupled with its pleasant historical associations, should awaken in their minds the tenderest feelings of affection. And this affection stirs their whole nervous system, keeping it to the highest emotional pitch in all matters of urgent national importance, and unites the whole population into one solid mass. This instinctive emotion is sometimes termed "Japanese patriotism." The magnitude of its momentum depends on its intensity and unity.

It is very difficult for a person not having a Japanese mind to understand at all the psychological unity of the Japanese nation. Neither Li Hung Chang, one of the keenest statesmen of China, nor the shrewdest of Russian diplomats and politicians could understand this psychological peculiarity of the Japanese, and they, in consequence, dragged their countries into disastrous wars. The outward expression of the continuous disagreement existing between the House of Representatives and the Government previous to the Chino-Japanese War, is said to have led Li Hung Chang to a misconception of the reality of Japan; similarly the comparatively calm attitude of the Japanese press and people before the Russo-Japanese War misled the Russian politicians and diplomats as to the true state of feeling in Japan. The Japanese people become instinctively conscious of any danger which threatens their national existence, because their country is always predominantly present to their conscious "self." They do not need constant warning and hostile agitation against a foreign nation. It is a great mistake to suppose that the representative system of government, the reform of the civil and criminal codes, the adoption of conscription, modern scientific education, &c., in short, the Europeanisation of Japan, alone, has made her the most progressive Power in Asia.

> "O'erweening statesmen have for long relied
> On fleets and armies and external wealth;
> But from *within* proceeds the nation's health;
> Which shall not fail, though poor men cleave with pride
> To the paternal floor; or turn aside,
> In the thronged city, from the walks of gain,
> As being all unworthy to detain
> A Soul by contemplation sanctified."[1]

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[1] Wordsworth, "Sonnets dedicated to Liberty." The reference is to the Spanish character as revealed in 1810.

CHAPTER II

THE NATION AND ITS POLITICAL MIND—*Continued*

INDEED, the successful emergence of Japan, now recognised by the whole world as a great nation, is but the result of the concentration—due to their complete subordination of the individual self to the State—of the accumulated energies of her population, driven by one common impulse to preserve their own independent existence. Complete subordination of the individual implies, however, absolutism on the part of the government. Absolutism, or Oriental despotism, as it is often called by Europeans, may be condemned by the doctrinaire as a remnant of the Primitive Age, or a relic of barbarism, just as the story of the Resurrection is sometimes ridiculed by the logician.

But the world is made up of many more impulsive creatures than of heartless logicians; and modern democracy in politics, which tends to emphasise the quantitative strength rather than the qualitative strength of the people, has not altered this condition of the world to any great degree; nay, it has made the emotions of the impulsive creatures influence more strongly the political affairs of the State.

The Divine Right of the Emperor, however absurd it may seem to the theorists of individualistic idealism, still holds a predominant place in the minds of the Japanese; and its political value seems to be as important to the Japanese nation as the religious value of miracles and mythological and allegorical stories is to certain religions. Therefore, to understand practical politics in Japan, we must make a careful examination of the effects of Mikadoism upon the Japanese body politic.

The Divine Right of the Emperor is the fundamental principle on which the Japanese polity was first established and on which it still rests. The first national organisation known in the history of Japan was religio-political in its character. The common worship of the Sun-goddess, with the Emperor as the high priest, was one of the chief functions of the government. In fact, the term *matsurigoto*, meaning worship, is etymologically in pure Japanese identical with that of government. In speaking of Shinto, the old State religion of Japan, Dr. Aston says: "Secular and sacred are much less differentiated in Shinto than in more highly developed religions. The Mikado was at once the sovereign and the high priest."[1] Thus the original, the fundamental political idea of the Japanese seems to confirm the theory which Professor Burgess pronounces universal: "The unbiassed political historian will not dispute the proposition—that the earliest forms of the State were theocratic—but he will teach that the State was brought through the earlier and most difficult period of its development by the power of religion. . . . This is entirely comprehensible from the standpoint of a correct political philosophy. The first and most fundamental psychological principle concerned in the development of the State is that of Piety, *i.e.* reverence and obedience. Unless the character of the mass of the population be moulded by this principle, the reign of the law cannot be attained."[2]

However, many Western nations have long since abandoned the theocratic form of State. There remains here and there only its shadow; already, even before the time of Plato, various forms of State seem to have existed. It is most singular that Japan has firmly and religiously adhered to her old traditional polity and made no single departure from it in the twenty-five centuries of her existence, during which she has passed through many vicissitudes, political, social, and economic. Many changes have taken place from time to time in the form and mechanism of her government, but its fundamental polity, a unique fact in political history, has never been altered, shaken, or transformed. It appeals, therefore, most intensely to the Japanese people, no matter how primitive and childlike its origin, and is engraven on their hearts and minds, and engenders their deepest admiration, reverence, and affection.

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[1] "Shinto," *Transactions and Proceedings of the Japan Society in London*, vol. vii. p. 346.

[2] *Political Science and Constitutional Law*, vol. i. chap. ii. p. 60.

That the Mikado reigns and governs the country absolutely, by a Right inherited from His Divine Ancestors, is the unconscious belief or the instinctive feeling of the Japanese people. Indeed, it may be said to be their religion —religion in the sense of the "inner voice" as defined by Matthew Arnold. Dr. Griffis says: "The corner-stone of the Japanese edifice of personal righteousness and public weal is loyalty."[1] This fact is shown in every phase of Japanese life. In speaking of the moral education of Japan, Baron Kikuchi says: "An individual must be ready to sacrifice himself for the sake of the house (or rather home), and himself and the house (home) for the sake of the lord, or, at the present day, for the Emperor and the State. That is the ideal to which we still try to educate our girls and boys."[2] In Japanese art, drama, and literature the most prominent theme is transcendent loyalty, so different from the love-making which is, as a rule, the leading feature in the art, drama, and literature of the West. So strong is the hold of Mikadoism on the minds of the Japanese that nothing has ever uprooted this deep-seated feeling, so that it seems to penetrate to their very flesh and bone.

The foreign religions, philosophies, ethical theories, and political principles which have come into Japan from the earliest ages of her civilisation, however great their influence generally, have done very little, if anything at all, to modify the traditional attitude of the people towards their Emperor. Confucianism, when it had spread over Japan, found the centre of its system shifted from filial duty to loyalty; Buddhism had to adopt many of the Shinto deities before it could become a religious system; when Christianity was first introduced in the sixteenth century, it spread with wonderful rapidity, but no sooner did the ambitious Jesuits attempt to convince the Japanese proselytes that Christianity was the only true religion, and induce them to defy the religions and laws of their country, and to encroach upon the temporal power of the State, than Christianity received its death-blow.[1] The Rev. William Cecil is right when he says that Christianity, if taken into Japan, would completely change its form.[2] Since the middle of the nineteenth century almost all the influential political dogmas, theories, and principles of the Western world, such as the law of Nature, the rights of man, individualism, utilitarianism, *laissez-faire*, the theory of *contrat social*, socialism, democracy, republicanism, and constitutionalism, have penetrated Japan, and have exercised considerable influence upon her political thought, so that the system of government was in a short period of time revolutionised; but the dogma of the divine right of the Emperor and the loyalty of the people has never mingled with or been affected by these new ideas.

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[1] *The Religion of Japan*, 4th ed., p. 111.

[2] "Female Education in Japan," *Transactions and Proceedings of the Japan Society*, London, vol. vii. p. 425.

By "lord" is meant the *daimio* or feudal chief. The author uses the word "house" instead of "home." The term "iye" in Japanese may be in some cases translated "house," but here home is undoubtedly meant rather than house.

But it is obvious that nobody will idealise the absolutism of the sovereign to-day as did Hobbes, for the danger would be great, if property and the life and death of the people depended solely upon the will of one man, mortal and fallible like any other. It must be understood, indeed, that the absolutism of the Emperor of Japan was never identified with tyranny nor with the despotism of Occidental history. Professor Nitobe emphatically states: "We had never the despots of Occidental history, nor were our annals ever stained by such a blot as the death of Charles I. or Louis XVI."[3]

In spirit and sentiment the Mikado was the *pater familias*, and the people were the members of his household; and this attitude was as a rule maintained between the sovereign and his subjects. The government, whether it was the direct rule of the Emperor, or the rule of the Court nobles, or the feudal *régime*, invariably assumed the patriarchal attitude of guardianship towards the people. The Constitution of Prince Shotoku provides: "The officers of government are also the subjects of the prince; and there is no reason why they should dare to lay undue burden upon others who are the subjects of the same prince."[1]

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[1] M. Fujita, *Bummei-Tozenshi Naihen*, chap. i. ii. iii.; W. Dickson, *Japan*, pp. 172, 180, 181; Captain Brinkley, *China and Japan*, vol. iii. pp. 121, 126, 129; *The Story of the Nations*, vol. xxxvii. pp. 202, 203, 204, 205.

[2] *Vide* Report of the Pan-Anglican Congress of 1908.

[3] *Bushido*, author's revised edition, p. 34.

If children can be said to be the slaves of their fathers, who have *patria potestas*, then the Japanese people have always been the slaves of their sovereign; and if political freedom and liberty are only co-existent with the sovereignty of the people, as the dreamers of the direct and complete application of abstract political formulæ believe, then the Japanese people had no political freedom and liberty.

But it ought to be understood that, if they were political slaves, they have never been economic slaves. Furthermore, it is interesting to observe that in Japan, where *patria potestas* has always been the chief characteristic of the family, a Society for the Prevention of Cruelty to Children has not yet been felt necessary, while in an enlightened community of the West, where the father cannot command the obedience of his son, and the son claims equality with his father, such a social institution is considered important. If it is, as Professor Ross thinks, "*obedience* that articulates the solid, bony framework of social order,"[2] the unlimited prerogative of the sovereign and the *patria potestas* which permeated Japanese society deserve proper recognition in considering her orderly political development.

The Emperor of Japan can say without hesitation, "L'Etat c'est moi," more effectively than Louis XIV., not because he can subject the people to his will, but because he is morally so recognised. Theoretically he is the centre of the State as well as the State itself. He is to the Japanese mind the Supreme Being in the Cosmos of Japan, as God is in the Universe to the pantheistic philosopher. From him everything emanates; in him everything subsists; there is nothing on the soil of Japan existent independent of him. He is the sole owner of the Empire, the author of law, justice, privilege, and honour, and the symbol of the unity of the Japanese nation. He has no pope or archbishop to crown him at his accession. He is supreme in all temporal affairs of the State as well as in all spiritual matters; and he is the foundation of Japanese social and civic morality.

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[1] Vide *The Constitution of Prince Shotoku*, chap. xii.; *Dai Nihonshi*, vol. xii. folio 28–30. A translation is found in the Appendix of *The Story of the Nations*, vol. xxxvii.

[2] *Social Control*, p. 12.

Perhaps this political transcendentalism of the Mikado may seem very absurd to the foreigner. Nevertheless, neither a Colenso, nor a Huxley, nor a Neitzsche has ever arisen in Japan to denounce it. Say, if you will, how unphilosophical are the Japanese! But the truth is that it is almost an impossibility for a sensible Japanese to denounce that which is associated with the pleasantest ideas of his native land, with the peace, tranquillity, happiness, and prosperity which his fathers enjoyed and he himself is still enjoying, and which he consciously recognises as the basis of the stability, dignity, unity, and strength of the nation, but which yet may be too trifling to satisfy the sceptical mind of a philosopher.

On the other hand, in the evolution of Japan's political history a most interesting phenomena remains to be noted. Notwithstanding his theoretical absolutism, the Emperor of Japan long ago ceased in practice to be an autocratic ruler.

From a very early age it was the custom of the Emperor to appoint wise men to carry out all the duties of the administration. In the beginning of the seventh century we find that the Constitution of Prince Shotoku provides: "The duty of men in the government must be assigned according to their capacity. When intelligent men take service the applause of the people follows; but when the unintelligent are in office, calamities ensue. If wise officers are chosen, the matters of the State are well managed, the community is free from danger, and prosperity prevails." [1] Thus in the course of time the administrative power of the State passed almost entirely into the hands of the ministers so appointed. In reality, the Emperor of Japan, like the constitutional King of England, became merely the

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[1] *The Constitution of Shotoku Taishi*, chap. vii.

"With the right men the growth of government is rapid, just as vegetation is rapid in the earth; and, indeed, their government may be called an easily growing rush. Therefore, the administration of government consists in getting proper men."—*Confucius*, *Chang Yung*, xx. 2, 3.

"A government (by a perfect guardian of the State, who is philosophical, high-spirited, swift-footed, and strong) never provides that which is profitable for itself, but it provides and enjoins what is profitable for the subject, looking to his interest who is the weaker, and not to the interest of the stronger. Every government, in so far as it is a government, looks solely to the advantage of that ceremonial head of the State. The difference between him and the king was that he could at will take either full or partial responsibility for administrative matters, there being no constitutional law or any convention, written or unwritten, to circumscribe the sphere of his action or to limit his ultimate sovereignty; but, as a matter of fact, there were very few emperors who ever attempted to take up or to interfere with the routine of government. The great majority of the Japanese sovereigns remained a whole lifetime in the inner circle of their court, and scarcely ever appeared in public.

This removal of the Emperor from an active part in the government led finally to a system of government elastic and flexible, though within the unalterable boundaries of our "Imperial absolutism."

When the ministerial offices were made hereditary like the throne, what happened between the sovereign and the ministers was repeated between them and their subordinates. While the ministers held firmly to their hereditary official emblems, the real governing power of the State was transferred from them to their subordinate officers. It is a curious phenomenon of the political history of Japan that the Japanese mind seems to have cared more for official titles, emblems, and honours than for actual power and material realities.

Not infrequently the real administrative power of the State of Japan passed from one hand to the other, just as under a modern parliamentary system it oscillates from one political party to the other. In the Middle Ages this prepared the way for the rise of Japanese feudalism.

When the civilian aristocrats of the Court had become, as the result of long hereditary office-holding, corrupt and effeminate, the military class, rising gradually towards the end of the twelfth century, seized the entire administrative

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which is governed and tended by it, whether that government be of a public or a private nature."—*Plato's Republic*, Book i. ii.

"As the normal forms of polity are in our judgment three, and of these the best of course is that which is administered by the best persons, or, in other words, that in which it is the case that there is either an individual, or a whole family, or a numerous body of pre-eminent virtue, and one party is qualified so to obey and the other so to rule as is conducive to the most desirable life."—*Aristotle's Politics*, Book iii., chap. xviii. (Weldon's Translation, p. 159).

functions of the State, and, with the imperial sanction, established a feudal *régime*. So feudalism in Japan was simply the transference of the government from the Court civilians to the military class. And, although feudalism somewhat modified the character of the administration *pari passu* with its *personnel*, yet the mechanism of government remained essentially unchanged; and the *shogun* as the administrative chief kept the same relation to the Emperor as the *kwambaku* of former days.[1] The *daimios*, or feudal lords, were in theory merely the military governors of the territories assigned to them, and therefore they, unlike the feudal lords in Europe, possessed no absolute tenure of the districts over which they ruled. Moreover, neither the *shogun* nor the *daimios*, speaking generally, ever exercised their autocratic powers. The administrative duties of their territories were entrusted almost entirely to their ministers and councillors, who often exercised their power in a quasi-joint responsibility.[2]

Moreover, under the feudal *régime* local autonomy existed to a considerable extent, so that the Shogun's government, paradoxical as it may seem, was *de facto* decentralised rather than centralised. If these conditions are clearly remembered, the great changes and reforms brought about almost imperceptibly by the Restoration of 1867 will be more easily understood.

Strange to say, yet nevertheless true, this peculiar oligarchic form of government with its characteristic flexibility, synthesised two political antitheses, *i.e.* autocracy and democracy. On the one hand, the removal of the theoretically absolute sovereign from all active part in the administration brought the government, under the rule of the Court nobles and the feudal *régime*, within reach of the people, and, on the other, it solemnly preserved the mystic sublimity of the Sovereign.

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[1] The *kwambaku*, an official title given to the Prime Minister. For some long time members of the Fujiwara family alone were chosen to fill this post, so that it became a kind of clan possession.

[2] "One of the lessons taught by Japanese history is that representative institutions are in the genius of the nation. At a very early era the Sovereign ceased to be autocratic or to retain any prerogative which might be exercised without the concurrence of his principal subjects. The highest offices of the State became hereditary possessions of certain great families, and as generation succeeded generation each unit of this oligarchy of households attained the dimensions of a clan, so that administrative functions may be said to have been exercised by groups, not individuals. Subsequently, the exigencies of the time gave birth to a military aristocracy headed by a generalissimo (*shōgun*), into whose hands administrative authority passed. But even in this military feudalism, no traces of genuine autocracy were found. Just as the extensive powers, nominally vested in the central figure, the *shogun*, were in reality wielded by a large body of ministers and councillors, so the local autonomy enjoyed by each fief was exercised, not by the chief himself, but by his leading vassals."—Capt. Brinkley, *China and Japan*, vol. iv. pp. 219, 220.

When the administrative power of the State was placed under the direct control of Court nobles or of military aristocrats, who had no divine authority to guard their actions, three important administrative checks arose to arrest their autocratic proclivities and to enable popular sentiment to influence the government. First, no matter the influence and prestige which they actually possessed, they were theoretically responsible to the Emperor, the *de jure* sovereign, who, though only nominally, always possessed the power of appointment and removal; secondly, they were mutually checked by their own colleagues, who vied with each other for supremacy; thirdly, they were subjected, if they showed any weakness or blundering, to popular criticism in a limited sense of the term. These three checks, coupled with the sense of duty, naturally resulting from their customary *pater familias* attitude towards the people, helped to counteract the selfish impulse of the rulers, and made the government more democratic in reality than appears in form—that is to say, reflect more faithfully the voice of the people.

On the other hand, the system added moral weight to the Imperial Sovereign in almost inverse ratio to the loss of direct governing power.

The removal of the Emperor from the active sphere of government placed him beyond popular censure and criticism. Whatever errors and blunders the government committed, the Ministers of State alone were blamed; and it was tacitly admitted that "the Emperor can do no wrong to his subjects." Thus he was sanctified, his dignity enhanced, and the reverence and affection for him increased so that in the minds of the Japanese masses he appears as a Mystical Sacred Being.

A retrospect of the history of the world furnishes us with the fact that the question of taxation is in many cases the cause of conflict between ruler and ruled, or the sovereign and his subjects. It is an economic question—the question of subsistence and self-preservation—that stimulates human genius to invent political doctrines and principles rationally justifying each man's claim to defend his own interests and those of his fellow-men, or to attack those of others conflicting with them. The doctrine "*vox populi vox dei*" was originated to serve as a weapon to attack a despotic, tyrannical government. Magna Carta, the Petition of Right, and the Bill of Rights all came into existence mainly as the result of disputes over taxation. It was also the question of money—taxation and representation—which brought about the Declaration of Independence of the United States. It may also be said that the French Revolution, which aimed at the practical application of the abstract principle of "Liberty, Equality, and Fraternity," was due to the economic distress of the proletariat.

Old Japan never had a Magna Carta, nor a Bill of Rights, nor any political manifesto involving abstract principles of justice, equality, liberty, and the rights of men. The *modus operandi* of taxation in old Japan will at least give a weighty reason for this absence. Dr. Simmons observes: "Taxation as understood or felt by people of most countries is a burden imposed, a kind of robbery of the results of the hard-earned means of the people; but it was as a rule regarded quite differently by the people of Japan (under the Tokugawa administration.)[1]

The payment of taxes did not seem to be regarded by the peasantry as a burden, but as a loyal duty in which they took more or less pride. It was an offering, as the word *mitsugi-mono* signifies. The time of the annual payment of rice at the collectors' storehouses, where each farmer's rice was submitted to inspection, instead of being an occasion of sorrow and irritation, was more like a fair, where each vied with the other in presenting for official inspection the best return of rice."[2]

Under such circumstances the Japanese people had been accustomed to place implicit trust in their government. Their economic conditions were never so distressing as to make them declare that "the government is of the people, by the people, and for the people." It was understood by them that the government, being an authority above, should take the initiative in all important matters of State and lead the people, and the people should follow in strict obedience. This idea is still consciously or unconsciously dominant in the minds of the Japanese masses. Hence the Japanese as a nation are like a well-disciplined army, but as individuals are little better than disbanded soldiers. This is, perhaps, the strongest and the weakest point of the Japanese nation.

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[1] Tokugawa is the name of the family which exercised the administrative authority of the State for more than two and a half centuries, from the beginning of the seventeenth century to the Restoration in 1867. Vide *Infra*, p. 41.

[2] "Land Tenure and Local Institutions," *Transactions of the Asiatic Society of Japan*, vol. xix. pp. 58, 59.

The excessive dependence of the people on the government, or the omnipotence of the government itself (Seifu-manno-Shugi), as Mr. Shimada calls this peculiar mental habit of the people, has certain advantages and disadvantages in the development of the country.[1]

That Japan has never experienced a violent constitutional revolution in her history is, no doubt, largely due to this peculiar mental habit of her people. The Japanese are in some respects emotional like the French, and sometimes strongly moved by the inspiration of certain ideals, as many instances in the revolutionary period of the constitutional movement from 1873 to 1889 will show,[2] but they do not become so desperate and violent in political matters as the French. Even if they bitterly oppose the officials of the government, they cannot totally ignore the authority of that government, especially when it runs in the name of the Emperor. Moreover, in a national emergency they obey the order of the government faithfully, and are willing to be guided. This is why the modern development of Japan is most strongly shown in the collective activities of her people.

On the other hand, this mental habit of the people is a great obstacle to the healthy development of representative government. The masses of Japan still maintain a reverential attitude towards the government, and look upon the government officials as superiors; they still cannot quite realise that the government is by the people. Hence, they cannot conscientiously approve plain, courageous, and straightforward criticism and discussion of government action, or of the political institutions of the country—that fair criticism and discussion of all matters of State, which is one of the most essential requisites of representative government. At the same time, the officials of the government naturally and unconsciously assume an arbitrary and commanding attitude towards the people. Mr. Shimada tells us that it is a common utterance of the majority of the members of the House of Representatives that "this cannot be done by the people, but must be entrusted to the government" (*Konokoto wa totei minkan no nashiuru tokoroni arazu, Seifu ni ichinin shinakereba naranu*), or "it is impossible for this undertaking to be carried on by private citizens or by corporations; it must receive a subsidy from the government" (*Kore wa shijin no shigoto ya, shakwai yushi no tede wa nashi togerarenu; Seifu ni iraishite sono hogo wo ukeneba naranu*).[1] This being the case, the House cannot fully trust its own power, nor dare to take important matters of State into its own hands. As a matter of fact, it unconsciously submits to the power of a government not responsible to it.

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[1] *The Taiyo*, or *Sun Trade Journal*, vol. xiii. No. xvi. p. 33.

[2] *Infra*, Part I. chap. ii. iii.

But the disadvantages, due to the lack of individual initiative and independent action of the Japanese people, are really greater drawbacks, in an age of international competition, to the industrial and commercial than to the political development of the country.

A close observer would, perhaps, be more struck by the socialistic tendency of the Japanese State than by its military and political achievements. Indeed, this most monarchical State is found to be most socialistic. In Japan, State initiative and supervision in industrial matters is very strong, in spite of the fact that the Government is not responsible to the people in the strict sense of the term. The entire postal system, telephones, and telegraphs, are owned and operated by the State; nearly all the gas, the electric, and water plants throughout the country belong to the State or to the municipality. Again, all railways are now nationalised, and even the tobacco, salt, and camphor industries are a State monopoly. There are in Japan very few great commercial and industrial undertakings, such as banking, shipbuilding, shipping, and navigation, &c., completely carried out by private individuals. The Japanese people are habitually inclined to wait for, or to depend on, governmental initiative or subsidy for a great industrial or commercial enterprise. The "Constitution," says Baron (now Viscount) Kaneko, "has been issued, and laws and codes have been brought to a certain perfection, and we now possess a complete skeleton of a State. But in the point of muscle and blood which I term the economic State, it is far from complete. It does not require much study to find out that, in spite of the satisfactory development of codes of laws and of a military system, the economic condition of our country is most discouraging."[1]

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[1] *The Taiyo*, vol. xiii. No. xvi. p. 33.

The individualistic people of the West, with undaunted will, uncurbed by the social obligation of filial duty or the duty of perpetuating the home, and unsoftened by the warm association of friends, go wherever opportunity affords the best facilities for independent existence, and strive to turn their energy into solid material realities. They migrate from one place to another, or from one land to another, establish a business or a colony, and then ask, if the case necessitates it, aid or protection from the government with a view to the further extension of their enterprises. Usually they do not wait with idle hands until the government leads them, and are never wholly guided by or dependent upon it, but rather cause the officials of the government to act for them. In fact, if a Western State has taken up certain public utilities in the form of railways, telephones, telegraphs, water, and lighting plant, it has usually been to check the excessive activities of certain individuals, while mitigating the evils of the unfair distribution of wealth.

But the case is quite different in Japan. To interfere with the excessive activities of certain individuals in commercial or industrial enterprises would hardly be thought of by Japanese politicians. Most of the State industrial undertakings now in the hand of the government were from their inception the works of the State; and it was chiefly for the purpose of raising revenue that others were eventually taken up.

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[1] *Japan by the Japanese*, edited by Stead, p. 93.

The quasi-communistic society of Japan encouraged and nourished strong sympathetic feelings among its members, while it checked any incentive to freedom of will or of action. As a matter of fact, the tissues and fibres of Japanese society are based on the proper relations of men rather than the complete development of individuals. Thus the Japanese are a people of heart rather than mind, and intuitionists rather than intellectualists; they are a people of good common sense rather than of good logic, and more sensitive to fame and honour than to material riches. Hence that calculating cool-headedness, which is an indispensable quality of money-making, is very much lacking in the Japanese.

It is interesting to observe at this juncture how a Western people regards modern Japanese civilisation, and how certain Japanese regard the Western civilisation of to-day. In an article entitled "Western Teaching for China," conjointly signed by Mr. Francis William Fox, Sir Percy William Bunting, and Dr. J. B. Paton, which appeared in *The Times*, March 16, 1909, this comment appears: "It is a fortunate thing that China has wakened up to the necessity of assimilating as rapidly as she can Western knowledge and culture. She is looking in part to the example of Japan—*too materialistic a model in our view*—but she is also stretching out her hand to the West; and therein lies the occasion for giving her assistance in the direction of civilisation, based on Christianity, of the Western people."[1] On the other hand, a Japanese student, who spent some years in the United States, England, and in France, once remarked to me as follows: "In order to make Japan equal to the great nations of the West in what is called civilisation, we need to become more materialistic, and to pay more attention to worldly affairs. Young men of the West, while taking a walk in the park, say, 'Here comes a grand motor-car; Oh, isn't she a beauty! That is a pretty fashionable dress,' &c. But young Japanese in the park say, 'What pretty cherry blossom'; or, 'Look at the picturesque scenery'; or, 'It is a beautiful sunset,'" &c.

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[1] The italics are mine, not the author's.

There were, of course, besides these shortcomings which I have mentioned, other drawbacks to the economic development of Japan. The mercantile class in old Japan was placed in the lowest social strata, and their morality corresponded to their social position was very much lower than that of any other class. These were the merchants who first began trading with the foreigners in the middle of the nineteenth century. The discredit brought by them upon Japanese business men, and the subsequent misunderstanding of foreign merchants, considerably hampered the commercial development of the country at the very beginning of Japan's international trade. To this must be added the lack of economic knowledge of the leaders of the time, mostly sons of *samurais* taught to despise discussion of the market price of rice.

In consequence Japan now suffers severely, since her economic development does not keep pace with her national expansion. But she is still undergoing a rapid metamorphosis. The people under economic pressure are gradually parting with their old traditions and becoming individualistic. How far they will go, how far individualism and the solidarity of the nation really conflict, how far these two can be reconciled in Japan, no one can foretell. But it seems to me that, *all other things being equal, the more individualistic a people the more unequal the individual distribution of wealth, but the greater the improvement in the economic condition of the State as a whole; on the other hand, the stronger the individualism the weaker the unity of the nation, because of the unfair distribution of wealth, and, in consequence, the greater the social disintegration.*

PART I

THE RESTORATION AND THE CONSTITUTIONAL MOVEMENT

CHAPTER I

THE RESTORATION OF 1867

I. The Political State before the Restoration[1]

In order to form a clear conception of the Restoration of 1867, I propose to make a brief survey of the political state of the country before that event.

According to Japanese tradition and history, the Empire was first founded by the Emperor Jimmu in 660 B.C.[2] He was then both civil ruler and military leader, and also the spiritual head of the State. By him the imperial throne was bequeathed to his descendants, who still constitute the imperial family of Japan. Thus the national polity, as stated in the Introduction, was from a remote age imperial in its foundation.

Up to A.D. 1156 the Emperor, or, in Japanese, Tenno, or Mikado, as he is sometimes called, was the direct head of the State, and the government was a centralised system. This, however, does not mean that he had "personal rule." Usually the Emperor delegated the governing power to certain Court nobles, who, each in turn, came into office and served him as Minister of State, while he himself lived in a quasi-sacred seclusion. All civil and military officers of the Court, as well as the governors of the districts, were made directly responsible to the Minister of State, and all branches of the administration were carried on in the name of and avowedly for the Emperor.

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[1] Ogino, *Dai Nihon Tsūshi;* Ariga, *Teikoku Shiriaku; Dai Nihon Rekishi;* Konakamura and Ochiai, *Shinsen Nihon Gwaishi; Nihon Gwaishi; Nihon Seiki;* Takekoshi, *Nisengohiaku-nen Shi;* Naito, *Tokugawa Jiū-go-dai Shi;* Ōkuma, *Kaikoku Cojiunen Shi*, vol. i. pp. 1–76; English ed., *The Fifty Years of New Japan; The Story of the Nations*, vol. xxxvii.; Capt. Brinkley, *China and Japan*, vol. i. chap. ii.–vii.; vol. ii. chap. i.–iii. v.; vol. iii. chap. iii.–vi.; Griffis, *The Mikado's Empire*, Book I.; Dai Nippon Tosho Kabushiki Kwaisha, *History of the Empire of Japan;* J. J. Rein, *Japan*, Part II.; "The Nineteenth Century Series," *Progress of India, Japan and China*, chap. xvi.–xx.; the *Times, Historians' History*, vol. xxiv. pp. 579–702; Harmsworth, *History of the World*, Part V.

[2] Some historians doubt the authenticity of the date, but not one of them is able to propose any definite change.

But subsequent to the civil wars of the Hogen and Heiji period (1156–1159), the military class gained the upper hand over the civilian statesmen and gradually encroached upon the administrative power. Towards the end of the twelfth century, Minamoto-no-Yoritomo, a military general, after restoring peace to the country, began to assume the administrative power. The Emperor then conferred upon him the title of *Sei-i Tai Shogun*, or generalissimo, the highest honour ever given to a military man. Yoritomo, however, did not, as his predecessors, remain at the imperial Court of Kyoto.

He established his headquarters, known as Bakufu, or "Tent Government," at Kamakura (not far from the present city of Yokohama), then in the remote eastern section of the country, where his power and prestige were predominant and his administrative methods readily adopted.[1]

Previously all provincial governors had been civilians sent from Kyoto, though the central administrative power had passed, in the middle of the twelfth century, into the hands of a military family, Taira, whose unpopular tyrannical government Yoritomo had overthrown. Yoritomo was now authorised by the Emperor to appoint military men to assist the civilian governors. However, the military men, being stronger, gradually took the administrative duties of the provinces into their own hands, and finally displaced the civilian governors. Thus, under Yoritomo's administration were laid the foundations of the feudal system in Japan.

The Kamakura Bakufu lasted only until A.D. 1333. When it was overthrown, an attempt was made by the Emperor, Go-Daigo, and his faithful generals, Nitta, Kusunoki, &c., to restore the imperial rule and to make all authority proceed directly from the Emperor. But after a short interval of about two years the administrative power was again usurped by an ambitious warrior, Ashikaga Takauji, who had fought at one time on the side of the Emperor and for the overthrow of the Kamakura government. After the downfall of the Kamakura government he was received by the Emperor, Go-daigo, into great favour. But he was not allowed to assume the administrative power for which he asked. He then made one of the imperial princes, Toyohito, known in history as Komio Tenno, Emperor, and, receiving the title of *Shogun* from this Emperor of his own creation, began to assume the administrative duties at the Court of Kyoto.

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[1] The name Bakufu, or "Tent Government," was given to Yoritomo's government because he first conducted the administrative duties of the State from his military camp and not from the imperial Court of Kyoto. After that the term came to be used for any Shogun's government.

Meanwhile, the Emperor, Go-daigo, surrounded by his loyal subjects, fled from Kyoto, and established his Court at Yoshino, a little way south of Kyoto. This was called the Southern Court, while the other was known as the Northern.

Thus Japan had at one and the same time two Courts and two Emperors, both lineal descendants of the imperial family. The Southern Court reigned over most of the territories in the East, while the Northern Court ruled most of the territories lying to the West. But in 1392 the southern Emperor finally came to terms with the Shogun Ashikaga and surrendered to the northern Emperor the insignia of imperial power.

All the Shoguns of the Ashikaga family closely followed the Kawakura government in their methods of administration, but they could not, as Yoritomo did, leave Kyoto and establish their own seat of government elsewhere. They always remained at the Court of Kyoto, and conducted all affairs of State in the name of the Emperor, even during the rule of the illegitimate Emperor. Yet the Ashikaga *régime*, from the beginning to the end, was neither popular nor successful; public sentiment was against it, because Takauji, the founder of the *régime*, had wrested the administration by armed force from the emperor.

In 1573, Yosiaki, the last Shogun of Ashikaga, was deposed by Oda Nobunaga, and the Ashikaga *régime* was brought to an end.

It was a very difficult task for Oda Nobunaga to obtain power. During the last period of the Ashikaga government the country was in a state of anarchy; the military provincial governors had already established themselves as feudal lords in their own territories, and as the central authority of the Ashikaga government was inefficient, they gradually became quite independent, engaging in warfare with their neighbours, risking their fiefs and exhibiting military prowess. The country was, in fact, involved from one end to the other in the internecine struggles of the feudal chiefs.

When Nobunaga, after many hard struggles, was on the point of success, he was betrayed by one of his generals, Akechi Mitsuhide, who was ambitious to become himself the ruling power in the country, and he met a premature death.

Mitsuhide remained in power but three days; he was then completely defeated by one of the shrewdest generals of Nobunaga, Hashiba (later Toyotomi) Hideyoshi, the Napoleon of Japan. It was not long before Hideyoshi succeeded in subduing all the feudal chiefs and restoring peace to the country. In 1585 the title *Kambaku,* instead of *Shogun,* was bestowed upon him by the Emperor, Ogimachi; this title had been conferred hitherto only on civilian statesmen of the highest rank and confined exclusively to members of the Fujiwara family. Though Hideyoshi controlled the administration and was the real ruler of the country, he always paid great respect to the Emperor. Thus he was a popular administrator as well as a successful general.

But the Toyotomi *régime* was of short duration and did not last two decades. Hideyoshi died in 1598, and his successor was young and weak. Consequently, the powerful feudal chiefs resumed their fight for supremacy. In 1600 a decisive battle was fought at Sekigahara between the opposing forces of the West and the East. Tokugawa Iyeyasu, once the most trusted friend of Hideyoshi, and an appointed guardian of his successor, and now the leader of the Eastern force, completely defeated the Western force, which supported the Toyotomi government. After this the supremacy of Tokugawa Iyeyasu came to be generally recognised, and under his sway peace was restored. In 1603 the Emperor graciously conferred upon him the hereditary title of *Sei-i-Tai Shogun*, which his descendants kept until the time of the Restoration in 1867.

If Iyeyasu, unlike Hideyoshi, had no Napoleonic talent for military affairs, he was a better organiser and administrator. In fact, he gathered the fruits of Hideyoshi's achievements and laid with comparatively little difficulty the foundation of the Tokugawa Bakufu, or government, under which the country enjoyed peace and prosperity for two hundred and fifty years. Iyeyasu, like Yoritomo, did not come to the imperial Court of Kyoto to conduct the administrative affairs of State, but chose Yedo (the present site of Tokyo), a city some distance from Kyoto, for the permanent seat of the Tokugawa government.[1]

The separation of the administrative seat of government from the imperial Court for more than two centuries removed the Emperor from the ordinary affairs of the State, in spite of the fact that Shogun Iyeyasu and his successors always conscientiously recognised the Emperor as the prime source of authority, even if they did not allow his will to prevail in political matters. It is interesting to notice that this peculiar duality of the Japanese government in the feudal ages led Engelbert Kaempfer—who was in Japan in 1690–1692—to suppose that Japan had two Emperors: one ecclesiastical and the other temporal.[2] Even as late as the early sixties, Sir Rutherford Alcock, one of the keenest of foreign observers among the early visitors to the country, failed to understand the real position of the Emperor.[3] The fact is that the Emperor, as the real source of authority, remained then only in the conscious minds of the Japanese, while the *Shogun*, or *Tycoon*, as he was sometimes called, was the real and absolute ruler of the country.

When Iyeyasu first assumed the administrative power, there were many feudal chiefs, or *daimios*, scattered throughout the country, who were semi-independent sovereigns in their own provinces. Iyeyasu wisely did not, however, interfere with their local administration. When, after the victory of Sekigahara and the downfall of the Toyotomi government, they recognised the supremacy of his clan, all he demanded from them was a promise of loyalty to the Tokugawa, military support in the case of war, and a trifling annual tribute;[1] the compulsory residence of the *daimios* at Yedo, the Shogun's capital, which was one of the most effective means of checking the activities of individual *daimios* in their own provinces, and of maintaining the supremacy of the Tokugawa, was not enforced before the third Shogun Iyemitsu. It would have been impossible for Iyeyasu to extract more from them peacefully, for certain powerful *daimios* had been his official equals under the Toyotomi government, while some had been superior, and, besides, all *daimios,* including Iyeyasu, were in theory equally the subjects of the Emperor. Iyeyasu, however, created a considerable number of fiefs out of the confiscated territories, and bestowed them upon many members of his own family and his own vassals. These fiefs were distributed in such a manner as to hedge in the territories of the powerful *daimios,* whose submission Iyeyasu still suspected, and to prevent the further extension of their influence and power. Iyeyasu's scheme was to let the feudal lords exhaust their resources by fortifying themselves one against the other, in their own provinces, balancing their power by mutual checks, and thus to secure permanently the supremacy for his own clan.

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[1] *Supra*, p. 38.

[2] Vide *The Story of the Nations*, vol. xxxvii. p. 149, footnote. There it quotes from Kaempfer's *Histoire de l'Empire du Japon*, vol. i. p. 182.

[3] *The Capital of the Tycoon*.

There were altogether 276 of these territorial lords under the Tokugawa government, each exercising absolute power within their own administrative districts.[2] Side by side with them were also many *daikwan,* or deputy governors, scattered throughout the country, who governed a small territory under the direct rule of the Tokugawa government. This was also to serve as a check to the expansion of the power of the individual *daimios.* Thus under the Tokugawa *régime* each locality of Japan had an entirely different administration and a different administrative head, though a certain uniformity of rule was found everywhere, due to the homogeneity of the people and their common customs, habits, and social institutions. It was, indeed, as a system of government, extremely decentralised, its power being based mainly on an elaborate series of checks and balances of the semi-independent sectional governments existing under its ultimate control.

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[1] Vide *The Legacy of Iyeyasu.*

[2] This is the number of *daimios* given at the time of the abolition of feudalism in 1872.

Such was the system of government which we find in Japan at the time of the Restoration in 1867. We will now examine the Restoration itself.

II. THE RESTORATION

As to the chief causes of the Restoration, Dr. Iyenaga says: "The last half of the eighteenth and the beginning of the present (nineteenth) century witnessed in Japan unusual intellectual activity. The long peace and prosperity of the country under the rule of the Tokugawa dynasties (or rather *Shoguns*) had fostered in every way the growth of literature and art. The *Shoguns*, from policy or from taste, either to find a harmless vent for the restless spirit of the *samurai* or from pure love of learning, had been constant patrons of literature. The *daimios*, too, as a means of spending leisure hours when not out hawking or revelling with their mistresses, gave no inattentive ear to the readings and lectures of learned men. Each Daimioate took a pride in the number and fame of her own learned sons. Thus, throughout the country eminent scholars arose. With them a new era of literature dawned upon the land. The new literature changed its tone. Instead of the severity, faint suggestiveness, and restrained politeness characteristic of the literature from the Gen-pei period to the first half of the Tokugawa period, that of the Revival Era began to wear a bolder and freer aspect.[1] History came to be recorded with more truthfulness and boldness than ever before.

"But as ancient histories were studied and old constitutions were brought to light, the real nature of the Shogunate began to reveal itself. To the eyes of the historian it became clear that the Shogunate was nothing but a military usurpation, sustained by fraud and corruption; that the

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[1] The Gen-pei period is the period just before and after the establishment of the Kamakura Bakufu by Yoritomo.

Emperor, who was at that time, in plain words, imprisoned at the Court of Kyoto, was the real source of power and honour. 'If this be the case, what ought we to do?' was the natural question of these loyal subjects of the Emperor. The natural conclusion followed: the military usurper must be overthrown and the rightful ruler recognised. This was the sum and substance of the political programme of the Imperialists. The first sound of the trumpet against the Shogunate rose from the learned hall of the Prince of Mito, Komon.[1]

"He, with the assistance of a host of scholars, finished his great work, the *Dai Nihon Shi*, or History of Japan, in 1715. It was not printed till 1851, but was copied from hand to hand by eager students, like the Bible by the mediæval monks, or the works of Plato and Aristotle by the Humanists. The *Dai Nihon Shi* soon became a classic, and had such an influence in restoring the power of the Emperor that Sir Ernest Satow justly calls its composer 'the real author of the movement which culminated in the revolution of 1868' (or more accurately 1867). The voice of the Prince of Mito was soon caught up by the more celebrated scholar, Rai Sanyo (1780–1833). A poet, historian, and a zealous patriot, Rai Sanyo was the Arndt of Japan. He outlined, in his *Nihon Gwai Shi*, the rise and fall of the Minister of State and the *Shoguns*, and with the satire, invective, and enthusiasm of a patriot urged the unlawfulness of the usurpation of the imperial power by these mayors of the palace. In his *Seiki*, or Political History of Japan, he traced the history of the imperial family, and mourned with characteristic pathos the decadence of the imperial power. The labours of these historians and scholars bore in time abundant fruit. Some of their disciples became men of will and action: Sakuma Shozan, Yoshida Tarajiro, Gesho, Yokoi Heishiro, and later, Saigo, Okubo, Kido, and hosts of others, who ultimately realised the dream of their masters. . . .

"Another tributary stream which helped to swell the tide flowing towards the Emperor was the revival of Shintoism (or Shinto).[1] . . . With the revival of learning, the *Kojiki* and other ancient literature were studied with assiduity, and Shintoism began to revive.[2] Its cause found worthy defenders in Motoori and Hirata.[3]

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[1] The Prince, or *daimio*, of Mito was one of the Gosanke, or three direct branches of the Tokugawa family, which were descended from sons of Iyeyasu. In the event of the elder line dying out, one of these three families would supply an heir to the Shogunate.

"Now, according to Shintoism, Japan is a holy land. It was made by the gods, whose lineal descendant is the Emperor. Hence he must be revered and worshipped as a god. . . . The political bearing of such a doctrine upon the then existing status of the country is apparent. The Emperor, who is a god, the fountain of all virtue, honour, and authority, is now a prisoner at the Court of Kyoto under the iron hand of the Tokugawa *Shoguns*. This state of impiety and irreverence can never be tolerated by the devout Shintoists. The *Shogun* must be dethroned and the Emperor raised to power."[4]

Thus certain forces of the social and political revolution were slowly but surely precipitating themselves in the minds of educated people some time before the Restoration.

Then, in 1853, Commodore Perry arrived at Uraga in Sagami (a place not far from the present city of Yokohama) with a letter from the United States requesting the opening of communication between the two countries. The demonstration of Perry's fleet and his persistent demand created considerable confusion and consternation all over the country. The Tokugawa government was extremely perplexed, and immediately ordered all the *daimios* to prepare a strong defence everywhere along the coast.

Owing to the troubles which Japan had had with the ambitious Jesuit missionaries in the sixteenth and seventeenth centuries, the policy of national isolation and the expulsion of foreigners was strongly advocated by the founder of the Tokugawa *régime*, and persistently maintained by his successors.[5] It was generally believed that intercourse with foreign nations would endanger the national existence, and their presence would therefore be a curse to the country.[1] No foreigners except a few peaceful Dutch merchants, permitted only under strict surveillance to conduct business in the island of Deshima, off the port of Nagasaki, could have any communication or intercourse with the Japanese nation. Any attempt on the part of a Japanese to go abroad, if discovered, met with the severest punishment. Even the building of a large vessel was absolutely prohibited. It was the strictest and most persistent of the traditional policies of the Tokugawa government to keep the country in complete isolation.

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[1] "Ism" in "Shintoism" is tautological.

[2] Vide *supra*, p. 4, footnote.

[3] Vide *Transactions of the Asiatic Society of Japan*, vol. iii.; Appendix, *Revival of Pure Shinto*.

[4] Iyenaga, *Constitutional Development of Japan*, 1853–1881, chap. ii. pp. 21–24.

[5] *Supra*, p. 27.

Now came Commodore Perry, with a formidable sea monster unfamiliar to the Japanese. A peaceful slumber of two hundred years and the isolated existence of the country put great difficulties in the way of the government. Unable to decide what course to take, the Shogun called a council of officials, communicated the American letter to the *daimios*, and requested the imperial Court in Kyoto to give its opinion.[2] Up to now the Shogun had conducted all the affairs of State with absolute authority, and dictated to the imperial Court at his will. But now, at this critical moment, he condescended to seek the opinion and advice of the *daimios* and the Emperor, and thereby revealed his own weakness.[3] The majority of the *daimios* and the Emperor strongly advocated the expulsion of the foreigners and the foreign vessels, and the maintenance of the traditional policy of isolation. They protested against any concession being made to foreign nations. The greatest exponent of this opinion was the *daimio* of Mito, a descendant of Komon Mitsukuni, who advocated the observance of greater reverence for the Emperor, notwithstanding the fact that his own clan was one of the three direct branches of the Tokugawa family.[4] The *daimio* of Mito argued: "The policy of the barbarians is first to enter a country for trade, then to introduce their religion, and afterwards to stir up strife and contention. Therefore, be guided by the experience of our forefathers two centuries ago; despise not the teachings of the Chinese Opium War."[1] On the other hand, the officials in the inner circle of the government, and certain *élite* known as the Dutch scholars (*Ran-gakusha*), who had studied with assiduity the Dutch language from the Dutch merchants residing in Deshima, and had obtained some ideas of Western civilisation, favoured the renewal of foreign intercourse.[2] The high officials of the government were from time to time informed, through the medium of the Dutch in Deshima, of the conditions of Western countries. They now came in direct contact with Commodore Perry. They thought that they could not refuse the American demand without plunging the country into war and risking the national existence. They argued: "If we try to drive them (the Americans) away, they will immediately commence hostilities, and then we shall be obliged to fight. If we once get into a dispute we shall have an enemy to fight who will not easily be disposed of. They do not care how long they fight; they will come with myriads of men-of-war, surround our shores, capture our junks, blockade our ports, and deprive us of all hope of protecting our coasts."[3] Thus the country was divided into two parties: *Joito*—Barbarian-expelling Party, and *Kaikokuto*—Party for Opening the Country.

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[1] *The Legacy of Iyeyasu*, chap. xxxi. It is translated by J. F. Lowder.

[2] *Genji Yume Monogatari*; Ariga, *Teikoku Shiraku*, p. 881; Shozan Yashi, *Kinsei Shiriaku*, p. 2; Adams, *History of Japan*, vol. i. p. 109.

[3] Ukida, *Seito-shi*, *Kaikoku-gojiunen Shi*, p. 315.

[4] *Supra*, p. 44.

In 1854 the Tokugawa government, notwithstanding the vigorous opposition and the outcry of the *Joito*, courageously concluded the first treaty with the United States, and subsequently with England and Russia. This was an extremely radical step, the reversing of a long-established political tradition. It was impossible for any government to take such a radical course without incurring certain risks. Indeed, as we shall see, this accelerated the downfall of the Tokugawa government.

Henceforth the government had to deal with internal dissension as well as with foreign disputes.

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[1] Nitobe, *Intercourse between the United States and Japan*, p. 39; *Genji Yume Monogatari*; *Kaikoku Shimatsu*, p. 166; *Ansei Kigi*, pp. 219–222. The news of the Opium War was first brought to Japan by the Dutch in Deshima.

[2] *Ibid.*

[3] *Genji Yume Monogatari.*

As I have said before, there was already a strong sentiment among the historians, Shintoists, and the scholars of ancient literature in favour of the restitution of power to the Emperor. Naturally, the thinkers of this class were enthusiastic advocates of an anti-foreign policy. When they saw that the Tokugawa government had concluded a treaty with the foreign nations without the consent of the imperial Court, they charged it with transgressing the imperial authority.[1] Most of the *daimios* and *samurais* had scarcely any knowledge of the West and its civilisation, and all they knew about the "red-bearded barbarians" was the experience of their forefathers with the Christian missionaries two centuries before.[2] They could not, therefore, understand the new course adopted by the Shogun's government, and they bitterly resented it. Unlike them, the prominent Dutch scholars ardently favoured the renewal of foreign intercourse, but, conscious of the weakness of the national organisation under the decentralised feudal system, they urged a strong centralised government under the direct rule of the Emperor.

Besides these Imperialists there was another strong party who most vehemently attacked the Tokugawa government, namely, the powerful *daimios* of Satsuma, Choshiu, Tosa, Hizen, &c. They cherished a strong hereditary jealousy and hatred of the Tokugawa Shoguns. Some of their ancestors under the Toyotomi *régime* had been superior to Iyeyasu, the founder of the Tokugawa Shogunate, in official position and in military power and prestige. After the downfall of the Toyotomi, which was chiefly due to the intrigues of Iyeyasu, they had for the time being recognised the supremacy of Tokugawa, but they had never really and heartily subordinated themselves to the Tokugawa rule. On the other hand, the Shogun, partly because of the remoteness of their territories and partly because of their old relationship, had never fully succeeded in bringing them under his influence and control.

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[1] "The reason the Tycoon breaks his promise is because he cannot keep it, and the reason he cannot keep it is because he had no right to give it."—Mossman's *New Japan*, pp. 142, 143. It is quoted in the *Story of the Nations*, vol. xxxvi. p. 326.

[2] "Barbarian" is the word commonly used for foreigners by the old Japanese, just as the ancient Greeks and Romans employed the term for all other nations except themselves.

When they saw that the Tokugawa government had shown its weakness and made many enemies by its new foreign policy, they revived their hostility towards it with redoubled force. They joined at one time with the *Joito,* or anti-foreign agitators, and at another with the Imperialists, and availed themselves of every means and opportunity, scrupulous or unscrupulous, to hasten the downfall of the Shogunate. With this end in view, the *daimios* of Satsuma and Choshiu encouraged the imperial Court to interfere with the administration of the Tokugawa, and at the same time they disregarded the authority of the government.

Co-operating with the anti-foreign mobs and fanatics, they not infrequently outraged foreigners and made attacks upon foreign vessels. This led to complications between the government and the treaty Powers at the very beginning of their intercourse. The perplexities of the government, inexperienced in Western diplomacy, were at this time almost beyond description. On the one hand, the foreign Powers, ignorant of the real difficulties of the Tokugawa government, brought great pressure to bear, imposed heavy indemnities, and demanded the effective protection of their treaty rights. On the other hand, the aggressive attitude of the foreign nations increased the irritation of the anti-foreign agitators and added force to the already heavy pressure put upon the government.

Moreover, when the treaty of amity and commerce came into force, foreign currencies, whose ratio of gold and silver was 15 to 1, were forced to pass for the corresponding weight of Japanese currencies, whose ratio was then 5 to 1. The result was obvious. The country was threatened with the exodus of all its gold.[1] No sooner had the government made an attempt to prevent this economic crisis by issuing a new silver coin with an adjusted ratio than it was accused by the treaty Powers of a gross violation of the treaty rights. It is needless to repeat here any other of the difficulties, more or less important, in which the Tokugawa government was involved during the first ten or twelve years of their intercourse with the foreign nations. In fact, the Shogun was strongly convinced of the difficulties of foreign intercourse.

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[1] Sir R. Alcock, *The Capital of Tycoon*, vol. i. chap. xiv. pp. 281, 282; Brinkley, *China and Japan*, vol. iii. chap. v. pp. 205, 206.

Thus, at this critical period of the country and history, the Tokugawa government, pressed hard by the foreign Powers from without and hampered from within by the outrages of the anti-foreign fanatics, by the frequent intervention of the imperial Court, by the diversity of opinions and actions among the *daimios* themselves, by its own system of decentralisation as well as by the hostility of the Western *daimios*, became unable to cope with the grave responsibilities of administration.

On 14th October 1867 the Shogun Keiki addressed to the imperial Court a letter intimating his intention of resigning, as follows:—

"A retrospect of the various changes through which the Empire has passed shows us that after the decadence of the monarchical authority, power passed into the hands of the Minister of State, and that by the wars of Hogen and Heiji (1156–1159) the administrative power came into the hands of the military class. My ancestor had received more confidence and favour from the Emperor than any of his predecessors, and his descendants have succeeded him for more than two hundred years. Though I perform the same duties of administration, dissatisfaction is now manifested in all affairs of the State. This is, I must acknowledge it, with a feeling of humiliation, due to my own shortcomings and incompetency. Besides, as our intercourse with foreign nations becomes daily more extensive and complicated, our foreign policy cannot be pursued satisfactorily, unless directed from a centre which unites all the powers of the State. Therefore, we believe that, if the administrative power be restored to the Court by changing the present system of government, and all affairs of the State be directed by the imperial Court in conjunction with 'impartial national opinion widely collected,' and then we unite with all our hearts and minds in protecting the country, it is certain that the Empire will be able to rank equally with the other nations of the earth.

"This is our heartfelt desire expressed with the deepest sense of duty towards the country. But if the imperial

Court has any other view with regard to this matter, it is earnestly requested that it will communicate it openly."[1]

Certain other aspects of the last days of the Tokugawa government may be seen in the Shogun's utterance in the interview with the British Minister, Sir Harry Parkes, and the French Minister, M. Leon Roches, on this occasion. It was afterwards reported in the Diplomatic Correspondence of the United States that the Shogun had said:—

"I became convinced last autumn that the country would no longer be successfully governed while the power was divided between the Emperor and myself. The country had two centres, from which orders of an opposite nature proceeded. Thus, in the matter of the opening of Hiogo and Osaka, which I quoted as an example of the conflict of authority, I was myself convinced that the stipulations of the treaties must be observed, but the assent of the Emperor to my representations on the subjects was given reluctantly. I therefore, for the good of the country, informed the Emperor that I resigned the governing power, with the understanding that an assembly of *daimios* be convened for the purpose of deciding in what manner and by whom the government should in future be carried on.[2] In acting thus, I sank my own interests, and the power handed down to me by my ancestors, in the more important interests of the country. . . .

"As to who is the sovereign of Japan, it is a question about which no one in this country can entertain a doubt. The Emperor is the sovereign. My office from the first has been to take the will of the nation as to the future government. If the nation should decide that I ought to resign my power, I am prepared to accede to their wishes for the good of my country.

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[1] *Vide* Taisei Henjio-no-Soso.

[2] We may infer from the statement that it never entered the mind of Shogun Keiki that the Emperor would personally conduct the administrative affairs of the State, though the power was restored to him. Keiki thought some one must take up, under the command of the Emperor, all the administrative responsibilities. His suggestion of convening an assembly of *daimios* was, no doubt, due partly to the fact that he considered it of the utmost importance to secure the consent of the dissident *daimios* in successfully conducting the foreign policy of the country, and also partly to the fact that he did not desire to see the *daimios* of Satsuma and Choshiu get the upper hand of the Tokugawa, and, in the name of the Emperor, take up the administration of the State.

"I have no other motive but the following: With an honest love for my country and her people, I resigned the governing power which I inherited from my ancestors, and with the mutual understanding that I should assemble all the nobles of the Empire to discuss the question disinterestedly, and, adopting the opinion of the majority, decide upon the reformation of the national constitution, I left the matter in the hands of the Imperial Court. . . ." [1]

Thus, on 9th November 1867, the resignation of the Shogun was accepted, and the administration of the State was once more restored to the direct control of the Emperor, two and a half centuries after Iyeyasu had established the Tokugawa *régime*, and six and a half centuries after Yoritomo had first laid down the foundations of the feudal system.

But on the eve of the Restoration the country was in dire confusion. "The Bakufu (Tokugawa government) was overthrown," says a critic, "and the Restoration was effected, but the restored government had not yet any definite programme of reconstruction, nor any formulated policy concerning the foreign question, which had been since Kayei the deepest concern of the whole Empire.[2] Still the passionate flame of the Imperialists and anti-Shogun agitators was consuming their burning hearts, but not one of them was able to propose a method by which the union of the Empire could be secured, and the permanent independence of the country might be preserved. The Shogun's letter of resignation said that 'if all the affairs of the State be directed by the Imperial Court in conjunction with "impartial national opinion widely collected," and then we unite with all our hearts and minds and protect the country, it is certain that the Empire will be able to rank equally with the nations of the earth.' But alas! these very words themselves show the panic-stricken state into which affairs had drifted." [3]

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[1] American Executive Document, Diplomatic Correspondence, vol. i. 1868-69, p. 620, 3rd Sess., 40th Cong. It is quoted in Iyenaga's *Constitutional Development*, pp. 26, 27.

[2] Kayei is a year name. It was in the sixth year of Kayei that Commodore Perry made his first visit to Japan. *Supra*, p. 38, footnote.

[3] R. Takayama, *Meiji Shiso-no-Hensen*, or The Transition of the Current Thought in the Meiji Era.

Notwithstanding this chaos, the significance of the Restoration was unmistakably clear to every mind. The Shogun's letter of resignation and his conscientious utterance to the representatives of certain foreign Powers enable us to comprehend the reason for this political transition. It seems that almost every one of the *Joito*, *Kaikikuto*, Imperialists, anti-Feudalists, and even Feudalists, consciously felt the imperative necessity for national unification, though there was a diversity of views among them as to the method of securing it, just as there was a difference in their knowledge of things, in temperament, and in their selfish impulses. It was on this fundamental issue that the leaders of the Reform fixed their eyes and concentrated their attention from the beginning. It is true that not one of them, in the excitement of the moment, could prepare any clear or definite programme for the reconstruction of the government, but it was their eager determination to solve the fundamental problem of national unification under the direct rule of the Emperor.

For the organisation of the government, they, therefore, first sought a suitable form in the history of the country, and took one that had prevailed before the development of feudalism, knowing that the country was then united under the imperial rule. The new government was organised accordingly and almost at haphazard. At its head was the Emperor, then a boy of fifteen years of age. He was to be assisted by his Cabinet, which consisted of a Premier chosen from among the imperial princes, a vice-Premier, seven Departmental Ministers, *i.e.* the Minister of Religion, for Home Affairs, for Foreign Affairs, of Finance, the Army and Navy, of Justice, and of Law.[1] Again, to assist the Ministers was a body of eighteen councillors, who, though lower in rank, were the most important group of persons in the reformation, and included the most active and influential leaders of the time.

Thus the new government began to take up the duties of administration. But it is interesting to observe that the government had then no steady source of revenue, except a certain very limited sum coming from the Crown lands.[1] The country was still ruled sectionally by the semi-independent territorial lords. The Gijio (Council of State) and Sanyo (Associate Council) then took counsel together, saying[2]: "Although the Imperial Family is now in possession of the government, it has no means of meeting its expenses, and the Tokugawa and other clans should be made to contribute."[3] And this was decided upon.

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[1] Note that the Minister of Religion stood at the head of the list.

Now, why should the Tokugawa and other clans contribute to the coffers of the government which had already overthrown the Shogunate and was likely soon to overthrow the other clans? Why did not these clans defeat the imperial Court, the centre of the new government, by force of arms, a thing which, if they had attempted, might very well have been accomplished? It is a singular fact that this government, minus army, navy, and money, was successful in what the *shogun* and *daimios*, with money and arms, had failed to accomplish. Shogun Keiki himself said to the representatives of the foreign Powers that no one in Japan entertained a doubt about the sovereignty of the Emperor.[4] Had this not been consciously recognised by the people, a pacific political transition on such a tremendous scale could never have taken place, nor would it have been possible for the new government to have done what the *shogun* and *daimios* had not been able to accomplish; nay, more, had the leaders of the Restoration not been fully aware that the independent existence of the country was threatened by a superior force without, and had the nation not been of a homogeneous race with the same customs and traditions, no such sweeping reform, no such complete unification as the Restoration of Japan, could possibly have been accomplished in so short a time and in such a peaceful manner.

Now, let us observe how all the important measures of reform were carried out one by one after the Restoration.

The leaders of the reform in the new government began their work within the imperial Court. Their first step was the abolition of the absurd old Court customs. They abolished the traditional seclusion and exclusiveness of the Court and all the hereditary posts in the government; they sought new ideas, advice, and suggestions, and invited men of ability and knowledge, irrespective of their social status. This was, indeed, the most radical measure ever taken up by the ultra-conservative Court of Japan, which had hitherto clung to the old customs, traditions, and precedents, as flesh clings to bone. The change was so abrupt and sweeping that the people were bewildered, and called the Restoration "Ishin," or Novel Innovation.

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[1] Hakubunkwan, *Zaisei Shi*, or History of Finance, p. 2.

[2] The function of the Gijio, or Council of State, was to discuss all important questions of State and to advise the Premier, or Sosai, and that of the Sanyo, or Associate Council, to assist the Departmental Ministers.

[3] *Kinsei Shiriaku*, p. 85.

[4] *Supra*, p. 57.

Next, the attention of the new government was directed to the foreign question. Its immediate solution was of paramount importance. Hitherto, the imperial Court had persistently maintained an anti-foreign attitude. In fact, the majority of the anti-foreign party (*Joito*) had worked assiduously for the overthrow of the Tokugawa government, expecting the imperial Court, on coming into power, to expel the "barbarians" by the united action of the whole nation. Anti-foreign sentiment was still strong in some quarters, and the people were very anxious to know the definite attitude of the government towards the foreign nations.

A memorial was addressed to the government by the powerful *daimios* of Echizen, Tosa, Choshiu, Satsuma, Hizen, and Aki, in regard to the foreign policy. It says: "Among the pressing duties of the present moment, we venture to believe it to be pre-eminently important to put the question of foreign intercourse in a clear light. . . . Hitherto the Empire has held itself aloof from other countries, and is ignorant of the affairs of the world; the only object sought has been to give ourselves the least trouble, and by daily retrogression we are in danger of falling under foreign rule. . . . We pray that the important personages of the Court will open their eyes and unite with those below them in a single-minded manner, and that our deficiencies being supplied with what foreigners are superior in, an enduring government be established for future ages."[1]

Consequently, an Imperial Ordinance was issued, announcing that while, through the mistake of the Tokugawa government, nothing had been done, the state of affairs has entirely changed, so that the government has now no option but to conclude treaties of peace and amity with the foreign nations, and therefore all the people, high and low, should recognise the rights ceded to foreigners.[1] Meanwhile, the Emperor gave audience to the foreign representatives in order to convince them of the sincerity of the government, and at the same time to show the people the determined attitude of the Court. This took place on 23rd March 1868, and produced the utmost excitement in the ancient capital of the Empire. It is hardly necessary to say what effect this event had upon the Japanese nation. When the news spread that the "red-bearded barbarians" had been received in audience by the Emperor, all the anti-foreign agitators had to abandon their long-cherished hopes. Thus the question which, in the hands of the Tokugawa government, had exhausted every means of solution, was now definitely settled.

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[1] Iyenaga, *Constitutional Development of Japan*, chap. ii. pp. 29, 30, 31.

The next great measure undertaken by the leaders of the reform was the removal of the imperial Court from Kyoto, the ancient capital of the Empire, to Yedo (now Tokyo), the capital of the Shogun, with the object of freeing the Court from the abuses prevalent in Kyoto, and at the same time of wiping out of the minds of the people all idea of that dual authority so long fostered by keeping the theoretical source of authority, the Emperor, at Kyoto, while the real administrative authority, the Shogun, lived at Yedo. This plan also met with some opposition. Certain Court nobles and the inhabitants of the old capital were not at all in favour of it. Nevertheless, there was no delay in the execution of the measure. It was carried out with great celerity.

Just before the removal of the Court a great event took place within its precincts. This event did not at the time attract so much attention as the other reforms of the new government, but from its consequences it must be considered one of the greatest events of modern Japanese history. On the 6th of April 1868, the Emperor proclaimed on oath the five principles by which the newly-established government would be guided. The Proclamation was known later as the "Charter Oath of Five Articles," and was destined to play a part in the constitutional development of Japan similar to that of Magna Carta. The substance of the Proclamation is as follows:—

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[1] "Diplomacy," by Ariga, *Japan by the Japanese*, p. 145.

1. An Assembly widely convoked shall be established, and all affairs of State decided by impartial discussion.
2. All administrative matters of State shall be conducted by the co-operative efforts of the governing and the governed.
3. All the people—officials, soldiers, and others—ought to be prevented from becoming idle and discontented by encouraging the achievement of their legitimate desires.
4. All absurd old usages shall be abandoned, and justice and righteousness shall regulate all actions.
5. Knowledge and learning shall be sought for all over the world, and thus the foundations of the imperial polity be greatly strengthened.[1]

In accordance with the first of the "Five Articles" the Kogisho, an assembly, consisting mostly of representatives of the feudal chiefs, was convened on the 18th of April 1869,[2] for the purpose of getting at national opinion, and taking the advice of the ruling classes.[3] In the debates of this Assembly many important measures of reform were recommended, such as the abolition of the land taxes, of the fixed rate of interest on money loans, the abolition of the name of *eta*[4] attached to certain social outcasts, and the enactment of a criminal code regulating capital punishment,[1] &c. All these proposed reform measures were extremely important, and involved many revolutionary changes in our social institutions. For instance, the wearing of two swords was one of the greatest privileges of the *samurai*, and served to distinguish him from the peasant, the artisan, or the merchant.[2] The abolition of this custom with that of the name of *eta*, were measures calculated to sweep away all class distinctions, and the entire caste system of society. Yet, strange to say, discussions in the Assembly (*Kogisho*) on these great questions did not sufficiently interest the members, partly owing to their inefficiency, and partly to the spirit of the time, so that the Assembly ended in a fiasco, and was prorogued indefinitely on October 4, 1870, and finally abolished in June 1873. But all the reforms discussed by it were carried out later by the government.

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[1] Gojio-no-Seichoku, April 6, 1868, or 14th of the third month of the first year of Meiji, according to the old calendar.

[2] 29th of the second month of the second year of Meiji.

[3] Iyenaga, *Constitutional Development of Japan*, pp. 34, 35.

[4] The origin of the *eta*, or "pariahs," is still a subject of dispute. Some maintain that they are the illegitimate descendants of Yoritomo, who was, as I have said before, the founder of the feudal system in Japan; others say that they are the descendants of the Korean captives who were brought back by the armies sent out by Hideyoshi, the Napoleon of Japan, on a Korean expedition, which took place towards the end of the sixteenth century; still others maintain that the social segregation of this class was first due to the influence of Buddhism, *i.e.* by the tenet of Gautama, which makes the taking of life in any way one of the greatest of sins, and so causing all those who were engaged in such occupations as

While the government was busily engaged in reform and reconstruction, there was considerable disturbance and much unrest in the North-eastern territories. Some of the Eastern *daimios* failed entirely to understand the real significance of the Restoration, because the new administration was conducted by a few Court nobles and the most influential retainers of the powerful Western *daimios*. The Eastern *daimios*, especially the *daimios* of Kuwana and of Aizu, thought that the young Emperor had been misled by the *daimios* of Satsuma, Choshiu, Aki, Hizen, and Echizen, and therefore persuaded the ex-Shogun Keiki to vindicate his rights. This led to an armed conflict between the imperial force, composed of the retainers of the Western *daimios*, and the Eastern force, containing the devoted supporters of the Tokugawa clan. Several bloody battles were fought, and the strife was embittered by the traditional hatred of the Western and the Eastern *daimios*. But it

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the slaughtering of cattle or other animals to be separated from the rest of the people, and governed by their own headmen. The *eta* were usually engaged in occupations which were considered very degrading, such as the slaughtering and skinning of animals, tanning, boot-making, digging of graves, burying of certain dead bodies, &c.

[1] Ariga, *Teikoku Shiriaku*, pp. 930, 931.

[2] In the feudal ages swords were considered the living soul of a *samurai* (*The Legacy of Iyeyasu*, chap. xxxvii.).

was not long before the Eastern armies were defeated in battle after battle, and completely surrendered.

About the middle of the year 1869 the country was at peace from one end to the other. The authority of the new government was recognised everywhere. But in the course of time another great difficulty appeared, which the Reform leaders had to surmount at all costs, in order to attain the end they had in view. It was the abolition of feudalism, the *sine quâ non* of national unification. This was the only logical end of the Restoration, though the idea had not occurred to the leaders of the movement at the beginning. They now saw that the establishment of a strongly centralised government was impossible so long as each *daimio* possessed legislative and financial autonomy within his own territory. But the task of taking away from some hundreds of *daimios* the princely power, rank, and territorial possessions which they had enjoyed for centuries was not at all an easy matter. It cost Europe centuries of bloodshed. It is interesting to note how it was accomplished in Japan.

As a matter of fact, it was impossible then for the government to solve this great problem by force in any form, for it had neither an organised army nor sufficient revenue apart from that contributed by the territorial chiefs. All the government possessed was the loyal support of a small band of *samurais*, the leaders of the Restoration, consisting mostly of the active, influential retainers of the powerful Western *daimios;* the conscientious recognition by the masses of the supreme authority of the Emperor; their reverence and affection for the imperial House; and, also their conscious feeling of the need of national unification in the presence of the aggression of the foreign Powers. But the military power and the resources of the country were still in the hands of the *daimios*, and the problem the government had to solve was in direct conflict with the personal interests of these territorial chiefs. The way the government contrived to extricate itself from this extraordinary dilemma is one of the most striking incidents of the revolutionary drama.

It was suggested by Kido that the problem should be solved by persuading the *daimios* to surrender their fiefs for the sake of the national good, and this was agreed to by Okubo, Saigo, and the rest. Kido, Okubo, and Saigo were the foremost leaders of the government; and, at the same time, Kido was one of the most influential retainers of the Choshiu, while the two others were the idols of the Satsuma clan. They first succeeded in persuading the most powerful *daimios* of the West—Satsuma, Choshiu, Tosa, and Hizen—who publicly surrendered their fiefs to the Emperor for the good of the country, addressing a memorial to the government which contained the following statements: "Since the establishment of the Empire, it has been the immutable fundamental political principle of the land that the lineal descendants of the first Emperor should reign over and govern it eternally. There is no soil within the Empire which does not belong to the Emperor, and no inhabitant who is not a subject of the Emperor, though, in the Middle Ages, the imperial power declined and the military classes rose, taking possession of the land, and dividing it among themselves as the prize of their bow and spear. But now that the imperial power is restored, how can we retain possession of land which belongs to the Emperor, and govern people who are his subjects? We therefore reverently offer up all our feudal possessions, with the prayer that the imperial Court will enact laws by imperial ordinance, and all military laws, all civil and penal codes, even down to minute regulations, be made to proceed from the imperial Court, so that a uniform rule may prevail throughout the Empire. Thus the country will be able to rank equally with the other nations of the world."[1]

This high-sounding document appealed to the sentimental patriotic mind of the Japanese more than a demonstration of armed force would have done. The example set by these four great chiefs spread like an epidemic, and was followed one after the other by all but seventeen out of the 276 *daimios* of Japan. This meant the voluntary and unconditional surrender of all the feudal possessions which they had inherited from their ancestors; and yet no one called it confiscation, whereas if the State of America were to ask Mr. Hill or Mr. Harriman to surrender their transcontinental railways, the cost of construction on a reasonable compensation being paid them, it would be spoken of by certain individualists as confiscation.[1] Of course, the whole matter was done at a psychological moment. Yet this explains exceedingly well the idiosyncrasy of the Japanese people.

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[1] *Vide* Hanseki Hokwan-no-Sogi. The real author of the memorial is supposed to be Kido.

Besides this patriotic altruism, there was another factor which facilitated the carrying out of this difficult task. In most of the clans the real power was exercised by able men of inferior rank, and a large number of these were the real leaders of the reform movement. Therefore, when they proposed that their masters should carry out any important measure, the masters made little opposition.

After the surrender of their fiefs, the ex-*daimios* were appointed to act as governors of the districts over which they had ruled, with an annual allowance equal to one-tenth of the former revenue of their fiefs, while their retainers were given official positions at a fixed income. But this arrangement was soon found unsatisfactory by the leaders of the reform, who were working for the complete unification of the country. It was found almost impossible to completely sweep away the usages and customs of the feudal *régime*, while the ex-feudal chiefs and retainers remained in the districts as government officials. Therefore, the leaders of the government now planned the removal of these ex-feudal chiefs from their places. To carry out this scheme the government used the same method of persuasion.

Iwakura, Kido, and Okubo, the ablest statesmen of the government, were sent out to discuss the matter with the ex-*daimios* of the West, and to persuade them to agree to the complete abolition of feudalism. And they agreed to it. On August 29, 1871, an imperial decree was issued, proclaiming the complete abolition of feudalism,[2] and at the same time ordering the removal of the ex-feudal chiefs from their posts as prefectural governors. It was also announced that henceforth the appointment and removal of all officials would be made by the central government. Thus, in about four years after the downfall of the Tokugawa government, the task of the Restoration—the unification of the country under a centralised government—was completed.

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[1] This was written before the death of Harriman.

[2] *Vide* Haihan Chiken-no-Shiochoku, August 27, 1871, or fourteenth day of the seventh month of the fourth year of Meiji.

CHAPTER II

THE FIRST STAGE OF THE CONSTITUTIONAL MOVEMENT

IN the preceding chapter I briefly sketched the political state of Japan before the Restoration of 1867, and discussed the chief causes of that great revolutionary movement and its immediate effects. In this chapter I propose to inquire into the constitutional movement—that is to say, to show how the Japanese acquired the ideas and ideals of representative institutions, doubtlessly occidental in their origin; how they expressed these newly-acquired ideas and ideals in their national politics; and how they led the way towards the realisation of representative institutions.

The constitutional movement of Japan, unlike that of many other countries, was not inaugurated with the motive of arresting the power of the Sovereign nor of settling the problem of "taxation and representation." It was a logical sequel to the reform of the Restoration—a reform largely based on the idea of the Europeanisation of the country—whether or not the reformers were conscious of this from the first. Their conscious feeling of the weakness of the national organisation, the backwardness of Japanese civilisation compared with that of the Western nations, and their desire to preserve the glory and prestige of their fatherland urged them to adopt Western things as speedily as possible, in order to civilise the country rapidly and make it as rich and prosperous in trade and industry as the countries of Europe and America. In 1897 Count Okuma, then Minister of Foreign Affairs, said in the House of Representatives: "If we inquire what points are practically most important in the foreign policy of the Meiji era, we find that to attain an equal footing with other Powers, as declared in the Imperial Edict at the Restoration, has been the impulse underlying all the national changes that have taken place. It was perceived that in order to attain an equal footing with the Powers it was necessary to change the national institutions, learning, and education. Hence, the replacement of clans by prefectures took place, as well as coinage reform, enforcement of the conscription law, revisions of various other laws and promulgation of new ones, establishment of local assemblies, and the granting of local self-government—a step that led at length to the promulgation of the Constitution. This national policy, this so-called opening and development of the country, or, in other words, this principle of attaining an equal footing with the Powers was, I firmly believe, the motive that has enabled Japan to become a nation advanced in civilisation and respected by the world."[1]

However, most writers of the constitutional history of Japan, either native or foreign, assuming the first article of the "Charter Oath" at the Restoration as the starting point of the development of representative institutions, dwell upon it with great emphasis, as if it were really the mainspring of the constitutional movement.[2] It is true that, when the radical politicians began their vigorous agitation for the establishment of a representative system of government in 1874,[3] they interpreted the first article of the Oath, the wording of which is really very ambiguous (*Hiroku kwaigi wo okoshi banki koron ni kessu beshi*),[4] in such a way that they might be able to contend that the establishment of a representative system of government was the will of his Imperial Majesty at the time of the

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[1] Count Okuma's speech in the House of Representatives, February 16, 1897. The translation is borrowed from Stead's *Japan by the Japanese*, p. 219.

[2] *Vide* Shimizu, *Kempohen*, p. 5; *Teikoku Gikwai-Shi*, vol. i. p. 1; Ukida, Seitoshi, *Kaikoku Gojiunen Shi*, vol. i. p. 321; Ariga, *Teikoku Shiriaku*, p. 920; Lay, *History of the Rise of Political Parties in Japan*, *Transactions of the Asiatic Society of Japan*, vol. xxx. Part III. p. 363; Furuya, *Système Représentatif au Japon*, pp. 30, 31; Dumolard, *Le Japon*, pp. 10, 11.

[3] *Infra*, p. 76.

[4] Vide *supra*, p. 57, for translation. *Hiroku* means widely; *kwaigi*, assembly. *Wo* denotes that *kwaigi* is accusative case. *Okoshi* means establish; *banki*, all affairs of State; *kessu*, decide; *beshi* is future auxiliary. In the Japanese language the personal subject of a verb of active voice is often unexpressed, as in the case of the agent of a verb of passive voice in English. In the translation *kwaigi* is made nominative, instead of accusative, a verb of passive voice being used.

Restoration, and used it as the basis of their demand for the immediate establishment of a popular assembly.[1] This no doubt helped the cause, adding considerable force to their agitation, owing to the peculiar mental habits of the people. On the other hand, the existence of the Oath blocked the way to absolute opposition, and by making it difficult for the government to defer for long the granting of a Constitution, hastened its promulgation. But there are many reasons for believing that the Charter Oath was not the pivot of the constitutional movement.

The word *kwaigi* means either council, assembly, or conference. It has been almost invariably translated in this case "deliberative assembly."[2] But it must be said that the word "deliberative" is purely an addition made by the translator. The word *koron* may be translated either "impartial opinion" or "impartial discussion," but hardly "public opinion"; in this particular case possibly "national opinion." We have the word *yoron*, which exactly corresponds to the word "public opinion." But *koron* in this case has been translated "public opinion,"[3] probably in order to emphasise the importance of the Oath with regard to the constitutional movement or the grant of the Constitution of 1889.

So much for the wording. Now as to the reasons. Dr. Iyenaga says that the constitutional movement of Japan began in a spontaneous agitation of the whole body politic, irritated by the sudden contact with foreigners;[1] but he does not tell us the part played by the Oath in the development of the movement.[2] Capt. Brinkley thinks that the Oath was simply intended by the leaders of the Restoration to be a safeguard against the ascendency of the *daimios* of Satsuma or of Choshiu to the Shogunate.[3] But in saying this he forgets that the most prominent figures among the leaders of the Restoration were the *samurais* of the Satsuma and Choshiu clans. Also, it was not the *daimios* who led their *samurais,* but the *samurais* who led their *daimios*. The *daimios* had in reality no power independent of their own influential *samurais.*

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[1] It is interesting to observe that a clause of Magna Carta—"Nulli vendemus, nulli negabimus, aut differemus, rectum aut justiciam"—is used to-day by suffragists to promote their cause without considering the original intention of the Charter. Mrs. Stopes says: "We must go back as far as Magna Charta, at least, to reach the foundation of the people's liberties. It was written in Latin, but the word *homo* was not only held *then* to mean (as it always does to those who understand it) *man and woman*, but when it was translated into English, a language deficient, through not providing a literal translation for *homo*, it was held that the word 'man' should take its place, and always include 'woman,' except where otherwise expressly stated. In that Charter the prime clause was, 'To none will we sell, to none will we delay, to none will we deny the right of justice.' That clause was framed expressly to include women, but every one who denies them the vote to-day denies them the justice secured to them by their fathers in Magna Charta."—*The Constitutional Basis of Women's Suffrage*, p. 3.

[2] Dyers, *Dai Nippon*, pp. 27, 28; Iyenaga, *The Constitutional Development*, p. 33; Lay, *History of the Rise of Political Parties*, p. 363; Dumolord, *Le Japon*, p. 11; Brinkley, *Japan and China*, vol. iv. p. 186; Clement, *A Hand-book of Japan*, p. 118, &c.

[3] *Ibid.*

The real intent of the Oath was not, as Capt. Brinkley asserts, the mere selfish aim of trying to prevent one another from obtaining the supreme power in the administration of the State. On the contrary, it was the earnest and sincere desire of the Restoration leaders to show the country, especially the powerful *daimios* of the East, who, prejudiced by their traditional jealousy and hatred of the great Western *daimios,* still suspected the activities of the Satsuma and Choshiu *samurais* in the imperial capital, that theirs was no selfish ambition, but the patriotic aim of national unification and the concentration of power under the direct rule of the Emperor, a matter which appeared to them of paramount importance for preserving national independence at this time of heavy external pressure. They hoped to obtain the co-operation and the support of all *daimios* by means of the Imperial Proclamation or "Charter Oath." This is why the first Article of the Oath states that "an assembly or 'council widely convoked' shall be established, and all affairs of State decided by impartial discussion or in conformity with national opinion." The fact of their sincerity is, I believe, incontestably proved by their actions immediately before and after the announcement of the Oath, such as the affirmation of the treaty rights of foreigners, the abolition of many old Court usages, the appointment of men of talent and knowledge, irrespective of their social status, the removal of the Court from its ancient capital, and the establishment of the Kogisho, a consultative assembly consisting of *daimios* and their representatives.[1] Moreover, these reforms of the leaders of the Restoration were exactly in conformity with all the five Articles of the Oath.[2]

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[1] Iyenaga, *The Constitutional Development*, p. 9.

[2] *Ibid.*, chap. i. ii.

[3] The Satsuma clan originally promoted the revolution, not with the intention of restoring the direct sway of the sovereign, but with the hope of substituting for the Tokugawa administration that of their own chiefs—the Shimazu family. . . . A few of them (the Satsuma leaders) clearly understood that the very existence of the country in the greatly altered conditions of the time depended upon the abolition of the dual system of government and unification of the nation under one sovereign. By these men, too, the councils of the clan were ultimately swayed. It may be confidently asserted, however, that the majority of their comrades originally saw in the sequel of the revolution a Satsuma Shogunate, not an imperial administration, and that they laboured not for the fall of military feudalism, but for its continuance under a new head. They had ostensibly abandoned that ambition before they cemented with Choshiu the alliance which assured the success of the revolution. But the sincerity of their reformed mood remained open to suspicion, and an important result is attributable to the fact. For this suspicion operated so strongly with the leaders of the revolution that, in order to provide a safeguard against all self-seeking aspiration of any one clan, they asked the Emperor to publicly register a solemn oath that a broadly based deliberative assembly should be convened for the purpose of conducting State affairs in conformity with public opinion.—Vide *Japan and China*, vol. iv. pp. 185–187.

Again, it is erroneous to assert that it was the Emperor's intention when he took the Oath to establish a representative legislative assembly. The Emperor was then a youth of sixteen, whose life had been passed entirely within the imperial Palace of Kyoto. That amounts to saying that the initiative of the Oath was not the Emperor's, and that he scarcely understood its purport, but simply acted on the wise advice of the leaders of the Restoration.

Nor did the leaders of the Restoration or the advisers of the Emperor have at that time any idea or intention of establishing a popular representative assembly. "An assembly, or council widely convoked," was meant by them to be an assembly of all *daimios* or their representatives. The necessity of calling a council of *daimios* in order to decide important affairs of State and the future policy of the administration was suggested by the ex-Shogun Keiki in his letter of resignation.[3] It became, therefore, necessary for the leaders of the Restoration to request the

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[1] *Supra*, pp. 57, 58.

[2] *Supra*, p. 57.

[3] *Supra*, p. 50.

Emperor to take the said Oath, and to make it clear to the public that "an assembly widely convoked" would be established and all affairs of State decided by impartial discussion or in accordance with national opinion. The word *hiroku*, "widely convoked," was, we may confidently assert, inserted to show that the Eastern *daimios*, who suspected the real motive of the Restoration, would not be excluded from taking part in the new administration. In fact, the Kogisho established in 1869 according to the Oath, suspended in 1870, and abolished in 1873, on account of the lack of interest shown by its members, was really an assembly of *daimios* and their representatives. But it was not a legislative assembly; it was purely a consultative or advisory organ of the government. Its sole function was to elicit prevailing ideas on all important matters of State in order to enable the government to ascertain the trend of public opinion. We may say without hesitation that the Kogisho was less influential than the *Commune Concilium Regni* under the Norman kings of the twelfth century in England.[1] As a matter of fact, attendance at the Kogisho was not considered by the *daimios* or their representatives as an honour; and the general desire was to evade it, if they could, as in the case of the tenants-in-chief summoned to the King's Council, though a grant of money was not associated with the Kogisho as it was with the Council. In fact, neither the suspension nor the abolition of the Kogisho met with any objection.

Such being the political status of the *daimios* and *samurais*, then the ruling classes of the country, we may safely say that the masses of the people did not come at all within the original scope of the Article of the Oath, even if it be admitted that the Oath was intended for the establishment of a deliberate legislative assembly. Japan had no idea of the people taking any part in the political affairs of the State. In the local government there existed, and they still survive here and there, the *mura* or *machi yoriai*—village or town meeting—somewhat similar to the town meeting of the early New England colonies—but they have never developed into a higher form. Though there are traces that the leaders of the Restoration desired, even at the beginning, to abolish class distinctions, yet there is no proof that they desired to give the people a voice in the government.

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[1] *Cf.* Medley, *English Constitutional History*, 3rd ed. pp. 124, 125.

It was in 1873 that the question of constitutional government first became a topic of discussion among the foremost leaders of the Restoration.[1] Then Kido, one of the most advanced of liberal thinkers, who had just returned from his European tour with vivid impressions of the amazing features of representative institutions in the West, addressed a memorandum to his colleagues suggesting the introduction of a constitutional system of government. This was really the conscious beginning of the ideas of representative institutions in the minds of the leading statesmen of the time. It must, however, be borne in mind that their ideas were still embryonic and rudimentary. Kido himself made no definite proposals for the adoption of the system, and was silent concerning the establishment of a representative assembly, though he stated that all matters of State concerned the people, and could not be decided by the arbitrary will of the rulers.[2]

Thus we may safely conclude that the constitutional movement of Japan did not begin with the Charter Oath of the Restoration. And to say that the genesis of the representative system of government in Japan was the Charter Oath of the Emperor is more erroneous and less true than to say that Magna Carta directly established the English House of Commons. The truth is *the real importance of the Charter Oath lies in the fact that it was the first step in the determination of the leading statesmen of the period to undertake the national reorganisation with the co-operation of the people, and adopt Western civilisation in order to preserve the independence of the country, and free it from foreign aggression.* The second, fourth, and fifth Articles of the Oath unmistakably indicate that this was the real intention of the framers of this imperial document. The second Article states that all administrative matters of State shall be rightly conducted by the co-operative efforts of the governing and the governed; the fourth, that the old absurd usages shall be abandoned, and that justice and righteousness shall regulate all actions; the fifth, that *knowledge and learning shall be sought after all over the world*, and thus the foundation of the imperial polity be greatly strengthened. It is indisputable that the new government, soon after the announcement of the Oath, was fully and completely guided by these principles.

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[1] *Vide* Kido's Memorandum concerning the introduction of a constitutional government.

[2] *Ibid.*

The Japanese people, just awakened from a long, peaceful slumber and suddenly exposed to a panoramic view of the world, were dazzled with the grandeur of the material prosperity and the progress of Western civilisation. The great pride with which they had formerly regarded their own civilisation, and their strong contempt for foreigners, made the reaction, when they realised their mistake, intense. Contempt for foreigners and foreign things changed to worship. And this sentiment, coupled with their patriotic fervour, spurred them to amazing activities. Speedily they began to adopt or imitate everything Western, believing that otherwise their own existence would be imperilled. They could not study, or had no time to study, whether this thing or that was fitted or unfitted to their own social life, or to consider its intrinsic value. Count (now Marquis) Inouye, one of the most active and influential leaders of the Meiji era, was then a champion of the Europeanisation of the country. "His view," says Count Fukuba, "was then not only to change the national institutions, learning, and education after the European fashion, but also to sweep away all our old usages and customs; that is to say, to substitute bread for rice, and the European costume for the long-sleeved Japanese garment, and even to turn the rice fields into the grazing land for sheep."[1]

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[1] Count Fukuba's reminiscence, *Tento Sanjiunen Shi*, p. 107. The sudden change of the people's attitude towards foreigners is sarcastically commented upon by one of the contemporary newspapers (*The Yokohama Nikkan Shimbun*) on the occasion of the Lord Chamberlain's return from Yokohama to Tokyo. "The Lord Chamberlain, Ōhara, returned yesterday from Yokohama. Along the route, as a mark of respect, all the doors were closed (it was a Japanese custom to close the door and pull down the blinds, when an official dignitary of the Court passed, so that the people might not look down on him); all the people in the street knelt before the procession, while many foreigners rode on horseback and arrogantly looked at the Lord Chamberlain. Yet, strange to say, nobody interfered with them. What a great change in a few years! How speedily the Japanese are getting civilised!" Vide *Tento Sanjiunen Shi*, p. 6.

Professor Rein also tells us that, in 1874, when he expressed to a friendly old *samurai* his surprise that an elderly German barber from New York had been appointed surgeon-general of the expedition to Formosa with a salary of 500 dollars a month, the *samurai* said to him, "Blue eyes and red hair (*i.e.* foreigner) were never in such esteem with us as now!"[1]

Most leaders of the Restoration had the opportunity of seeing with their own eyes the remarkable contrast between the social and political institutions of the West and their own country under the feudal *régime*. On the one hand, they saw the class rule of feudalism, its social barriers and segregations, its rigid restrictions with regard to freedom and liberty, its special privileges, favouritism, espionages, its elaborate system of etiquette and ceremony, and its pomp and splendour; on the other hand, they saw Europe and America in the last half of the nineteenth century at the high tide of modern democracy and of constitutional reform. There they heard the doctrines of utilitarianism, liberalism, individualism, and the theory of social contract fresh from the mouths of the disciples of Bentham and the Mills, from Spencer himself, and those who had inherited the traditions of Rousseau. Besides, they were, with very few exceptions, young men not over thirty-five years of age, and *samurais* of very low rank, who, by sheer force of ability, talent, and knowledge, had raised themselves to positions of trust in the State. Hence they were exceedingly receptive of new ideas and susceptible to liberal principles.

When the principle of *liberté*, *égalité*, and *fraternité*, and of the natural rights of man was presented to their notice, they were infatuated. It is extremely interesting to note how their newly-imbibed ideas prompted their action. How quickly they legislated for the emancipation of the *eta* (social outcasts), permission for the inter-marriage between the different classes, abolition of feudalism, prohibition of sword-wearing—the most honoured privilege of the *samurai*—abolition of *harakiri* and the use of torture in obtaining testimony, revocation of the edict against Christianity, and adoption of Sunday as an official holiday! All these things are significant of the practical application of their acquired Liberal principles.

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[1] J. J. Rein, *Japan*, p. 378.

In the period between 1874 and 1889 Liberalism in Japan reached a culminating point. The country was then flooded with half-digested thoughts on *laissez-faire*, utilitarianism, individualism, and the theory of social contract. "From the Restoration," says Takayama, "up to about 1889 the current of thought in Japan was entirely engrossed by Westernism, Europeanism, the imitative spirit of foreign things, and the worship of foreigners."[1] In the schools, lecture halls, club rooms, and through the medium of the press, the gospel of liberalism was taught and preached as if it were a fresh divine revelation. Even certain extreme views of the theory of social contract, incompatible with the national polity of the country, were propagated with intense zeal and energy by certain influential leaders. Popular literature, political pamphlets, and the party propaganda of the time were loaded with bold expressions of liberal principles. One of the most widely read books (*Gakumon no Susume*), written in the first decade of Meiji by Mr. Fukuzawa, one of the foremost popular educators of the period, contains this assertion: "All men are by Nature created equal. And there being no difference of rank by birth, . . . it is evident that the aim and desire of Nature is to let every man have an equal opportunity of utilising everything in the universe for the necessities of life, so that he may live happily, freely, and independently, and without interfering with the rights of others.[2] It is the business of government to protect good and suppress bad by the force of laws. To carry out this, a government requires a large income; but as it has neither money nor rice, the people pay an annual tribute with the understanding that it attends properly to its duties."[3] In the prospectus of the *Risshisha*, an educational institution organised by Count Itagaki, is found the

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[1] *Meiji Shiso no Hensen*, or, The Transition of the Current Thought in the Meiji Era.

[2] *Gakumon no Susume*, vol. i. p. 1.

[3] *Ibid.*, vol. ii. *Cf.* Rousseau, *Du Contrat Social*, livre i. chap. i.; Thomas Paine, *The Rights of Man*; *The Declaration of the Rights of Man*; *The Declaration of Independence of the United States*, &c.

"All men are born equally free and independent; therefore, all government following statement: "We, the thirty millions of people in Japan, are all equally endowed with certain definite rights, among which are those of enjoying and defending life and liberty, acquiring and possessing property, and obtaining a livelihood and pursuing happiness. These rights are by Nature bestowed upon all men, and, therefore, cannot be taken away by the power of any man."[1] Again, the same doctrine is found in the propaganda of one of the political factions. The oath of the *Aikoku-Koto*, or, literally, Patriotic Party, says: "We do but recognise that all government is instituted for the people. Our aim and purpose in organising this party is to protect and maintain the rights of the people, so that their freedom and independence shall be respected."[2]

But at first the masses were almost indifferent to the new political teaching. First, the abstract principle of liberty and equality was not understood by their less-trained minds; secondly, they were happy and contented with the existing state of things; thirdly, they were too submissive to the authorities of the government. Mr. Fukuzawa was irritated by the indifference of the people to the new Western ideas, and said: "The people of our country have no vigour and no spirit. They are like parasites, while the country seems to exist altogether for the government, and the government is everything. This is due, of course, to the social customs, which have prevailed for a thousand years. In our country the people used to follow the government, while the government interfered with all the affairs of the people, from military defence, arts, education, and literature, to the details of trade and industry."[3]

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of right originates from the people, is founded on the consent and instituted for the general good." Vide *The Constitution of New Hampshire.*

"The end of the institution, maintenance, and administration of government is to secure the existence of the body politic, to protect it, and so secure to the individuals who compose it their natural rights and the blessings of life. Government is instituted for the common good, for the protection, safety, prosperity, and happiness of the people, and not for the profit, honour, and private interest of any one man, family, or class of men." Vide *The Constitution of Massachusetts.*

[1] Almost identical expressions are found in the *Constitution of the State of California*, Art. I. sec. 1.

[2] *Honsei*, or The Oath of the Aikoku-Koto, Art. II.

[3] Vide *Gakumon no Susume*, vol. v.

If there had not been a serious conflict among the leaders of the Restoration, dividing them into two parties, the "ins" and the "outs," the agitation for the establishment of a representative system of government would have been considerably postponed.

Among the politicians who took the reins of government soon after the Restoration were men of two distinct types. The one was civilian; the other, military. In thought the one belonged to the old *Kaikokuto*, or Party for Opening the Country; the other belonged to the old *Joito*, or Anti-Foreign Party. The first was chiefly composed of men of thought and action; the other, of men of extreme passion and impulse. In matters of State the first, strongly conscious of the weakness of the country, advocated internal improvement first and foremost, and calmly faced the humiliating position of extra-territoriality and of a forced customs tariff; while the other, being more sensitive of national glory and prestige, favoured more stringent measures towards foreign nations. Notwithstanding this divergence of thought, taste, and impulse, the high sense of duty, common to them all, united them at the critical moment of the Restoration and absorbed them in the work of national unification and the reconstruction of the State under the direct rule of the Emperor.

But on the completion of this task collision became sooner or later inevitable. The Korean question, begun in 1868 by the refusal of Korea to continue intercourse with Japan on the traditional basis, reached its climax in July 1872.[1] It was then practically decided by the majority of the Council of State, which included Saigo, Goto, Itagaki, Okuma, Oki, &c., to solve the question by war; and this was agreed to by the Premier, Prince Sanjo, provided that it had the approval of Prince Iwakura, who was just returning home from his tour in Europe and America.[2]

In September Prince Iwakura and his suite, Okubo, Kido, and Ito, reached Japan after nearly two years' absence. They had been despatched to Europe and America to obtain the revision of certain treaties which expired in July 1872; but, after seeing the social and political status of the West, they abandoned the hope of treaty revision for the time being, and returned home, strongly impressed with the advanced civilisation of the Western nations.[1] Therefore, when the decision of their colleagues was known to them, they diametrically opposed the policy of war with Korea. They contended that as Japan had not yet attained a status equal to that of the civilised Western nations, the great work of internal reorganisation was much more important than the chastisement of Korea.[2]

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[1] *Vide* Tatsumi, *Nisshin Senneki Gwaikoshi*, pp. 19, 20.

[2] *Ibid.*

The war party, headed by Saigo and Soyejima, urged that national strength depended chiefly upon armed force, and, if militarism did not keep pace with the other reforms of the new era, the national prestige would be threatened; they declared that war with Korea was necessary, on one hand to chastise Korea, and, on the other, to revive the militant spirit of the nation.[3] It is said that so sincere and animated was the debate between the two parties that it lasted several days and nights.

When, however, the peace advocates, mostly superior in official rank, firmly decided against a policy of war, all their adversaries, Saigo, Sayejima, Goto, Itagaki, Yeto, &c., immediately tendered their resignation and left the government. They believed that public opinion was strongly on their side, for many *samurais*, discontented at finding, after the abolition of feudalism, that they could not adjust themselves to the rapid changes in the social, political, and economic conditions of the time, clamoured for the Korean expedition. Hence, some of them adopted the novel method of publicly charging the officials with the arbitrary policy of the government.

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[1] An interesting story is told about the knowledge of Iwakura's party of the diplomatic etiquette in the West. When Iwakura reached Washington as Minister Plenipotentiary and began to open negotiations with the Secretary of State, he was requested first to present his credentials from the Emperor of Japan and his government. Thus, Iwakura first found out that such documents were necessary to enable him to represent his government in a foreign country, and he sent Okubo and Ito all the way back to Japan to fetch them. *Vide* Hakubunkwan, *Gwaikoshi*, pp. 10, 11.

[2] Ariga, *Diplomacy, Japan by the Japanese.*

[3] If we note the relative knowledge of the two parties on the existing state of Eastern and Western countries, we shall be better able to appreciate the sharp divergence of their views. Most of the influential peace advocates, fresh from the observation of the advanced civilisation of the West, were comparing Japan with Western countries, while those who favoured a policy of war, better informed as to the conditions of the Far Eastern nations, held a different opinion of Japan's position.

On 17th January 1874, Soyejima, Goto, Itagaki, Yeto, Yuri, Komuro, Okamoto, Furusawa, and Mitsuoka jointly addressed a memorial to the government, in which they pointed out the arbitrariness of the government officials in conducting the administrative affairs of the State, and urged the necessity for establishing a representative system of government.[1] Thus it was a pure accident that the split among the veterans of the Restoration in the Council of State became the first landmark of the struggle for a constitutional *régime* in Japan. A part of the memorial runs as follows:—

"Observing the manner in which the administrative affairs of the State are conducted at present, we are convinced that the real governing power is not vested in the Imperial House, nor in the people, but monopolised by the officials of the government. It is true that the officials do not intentionally neglect to pay respect to the Imperial Throne or to protect the people, yet there is a tendency towards a gradual diminution of reverence for the Throne, and the people suffer from the constant change of laws, and unjust rewards and punishments. It is impossible for the voice of the people to be heard; and the channel, by which their grievances should be made known, is closed. It is quite obvious (the merest child can understand it) that under such circumstances it is impossible to secure peace and tranquillity. If the cause of the evils be not removed, we are afraid that the State will inevitably be ruined. Thus, urged by a strong sense of patriotism, we venture to propose, after a careful investigation, that the only remedy for this state of things is to encourage public discussion on all affairs of State. This can be effected solely by establishing a representative assembly. Only by limiting the power of the government officials can the people safely protect their rights and maintain their happiness. We venture to say that it is a universally accepted principle that the people who pay the tax are entitled to a voice in the government.[1] We are inclined to think that the government officials would not dare to dispute the truth of this proposition. Those who oppose the establishment of a representative system of government may contend that it is too soon to introduce it into our country, the people being still uneducated and unintelligent. But we maintain that, if the people be really uneducated and unintelligent, as alleged, a representative system of government would be a good medium to educate and enlighten them."[2]

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[1] It is said that the memorial was drafted by Furusawa. Komuro and Furusawa had then just returned from England, imbued with the ideas of representative institutions.

The memorial must have been a great surprise to the statesmen remaining in office. The majority of the memorialists were those men who had attached more importance to the glory and prestige of the country than to internal reform and popular rights. The defeat at the hands of their superiors of the policy which they considered most important, provoked them and made them restless. Besides, they knew that the policy of war with Korea was popular, especially among the discontented *samurais*. Indeed, the memorial was an outburst of their irritation and a device to embarrass the government.

Anyhow, the occasion for this new political agitation was a very appropriate one. On the one hand, public sentiment ran high over the Korean question. Hitherto there had been no great dissension among the leaders of the new administration. So the sudden split in the Council of State caused great excitement, and public attention was concentrated on the seceders. On the other hand, the ablest statesmen remaining in office were Iwakura, Okubo, Kido, and Ito, who had recently returned from Europe vividly impressed by the political institutions in the West. Though they held moderate views with regard to the introduction of representative institutions, it was really they who first considered the gradual remodelling of the political institutions of Japan after the fashion of those in the West.[1]

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[1] They certainly did not mean that the principle of "no taxation without representation" was then a universally accepted principle in Japan. As I have already said in one of the introductory chapters, we had no such principle. It would seem then that they thought any political principle widely accepted among Western nations to be an eternal truth. This shows how their minds were engrossed by Western ideas.

[2] The *Nisshin Shinjishi*, No. 206.

Hence, the answer of the government to the memorial issued from the *Sa-in* (Legislative Department) was given in a most cordial and conciliatory note.[2] It was affirmed that the principles advocated in the memorial were excellent, that the suggestion would, therefore, be adopted and recommended to the *Sei-in* (Council of State), that the Home Office would be called upon to give its opinion, and that when an Assembly of Prefectural Governors—the convocation of which was then under consideration—was opened, the question of an elective council would be taken up.[3]

After this, the public reception of this novel memorial became still more enthusiastic. Prominent men in public life, almost without exception, took up the question and decided for or against it. All the newspapers, which then enjoyed full freedom of the press, discussed the question freely and enthusiastically. There was no strong opposition to the establishment of an elective council or assembly. The main discussion was on the question when it should be established. Japan was then, as I have said before, under the spell of Western civilisation.

The strongest opposition was headed by Dr. Hiroyuki Kato, an official in the Imperial Household Department. A much-read article of his appeared in the *Tokyo Nichinichi Shimbun*, a leading newspaper. The main arguments contained in it were as follows:—

"The development of public opinion in Japan is the very thing for which all thinking men are earnestly hoping. There is, it is true, no surer foundation for the peace and prosperity of a nation than a steady public opinion. But there is one difficulty. Public opinion is not necessarily wise opinion or a correct view. Even the civilised States of Europe sometimes fail to produce wise public opinion.

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[1] Vide *supra*, p. 69.

[2] The administration was divided into three main branches, *i.e.* Sei-in, Sa-in, and U-in. The Sei-in may be called the Council of State, in which the Emperor may be present in person; the Sa-in, the Legislative Department; the U-in, the Executive.

[3] Vide *The Japan Mail*, February 10, 1874, p. 63.

How is it possible in an imperfectly civilised State like ours to get it? The object for which a deliberate assembly is instituted, I venture to say, is the legislation of such laws and constitution as shall place the peace and prosperity of a nation on a firm basis. Such legislation requires minute investigation into the social customs, and the habits and mind of the people, so that the laws and constitution enacted shall be well adapted to the condition of their life. . . . This can be done only by wise persons. . . . It is true that our country is gradually moving towards a higher civilisation, but it is also true that the peasants and merchants are still the peasants and merchants of yore. They are satisfied with stupidity and ignorance, and it has not yet been found possible to arouse in them much political activity. The *samurai* class is somewhat different, but there would still be few who could understand the principles of things, such as what a government is; what citizenship means; why a government has a right to levy taxes; and why a citizen submits to military service. These are simple questions.[1] Yet it will be found that eight or nine out of ten cannot give any intelligent answer. . . . It is true that even officials do not escape criticism regarding their imperfect knowledge and education. But I venture to think from my own knowledge that, outside the present government officials, there would not be more than sixty or seventy men of distinguished ability and knowledge in the whole nation. It is impossible for these sixty or seventy men to be taken as a standard of the whole thirty millions of the population. Therefore, though the officials are not conceited and arrogant, as alleged, it cannot be wondered at, if they think they are, at present, indispensable in the management of all affairs of State. If it is desirable to arouse a spirit of activity in the people, the establishment of schools and a system of sound education are more likely to produce that effect than the hasty establishment of a representative system of government. Therefore I maintain that the advocating of the immediate establishment of an elective assembly is the result of reckless and imprudent thought." [1]

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[1] I am not prepared to say whether Dr. Kato really thought these questions simple and easy or whether he made the statement simply for the sake of the argument. Yet it is interesting to note that such a statement was made then by such a learned man as Dr. Kato.

On February 20, 1874, Itagaki, Goto, and Soyejima made a joint reply to Kato's article.[2] They denied that the few alone were fit for the management of State affairs. In fact, the Restoration and the establishment of the reformed government were first conceived not by the feudal chiefs, but by *samurais* of low ranks and *ronins* (literally, "wavemen," those *samurais* who had lost their chief for some reason or other), and then accomplished by the combined efforts and actions of the entire people. They argued that the extreme submissiveness of the masses is not chiefly due to a low degree of civilisation, but to the default of the existing institutions. They maintained, however, that they had never proposed a universal franchise. In the first instance the franchise should be granted only to the *samurais* and the rich farmers and merchants, because they had produced the leaders of the new era.

Thus the first scene in the struggle for constitutional government in Japan was opened. Hitherto all the leading newspapers, the *Tokyo Nichinichi*, *Choya*, *Akebono*, *Yubinhochi*, &c., had heartily supported the government; for all the prominent leaders of the time were in the government, and had worked together for the same ends —the centralisation of power, the unification of the country, and the abolition of feudalism—but the split in the camp of the leading statesmen was accompanied by the dissension of the leading newspapers.[3] All the leading papers, except the *Tokyo Nichinichi*, shared the political views of the seceders, and assumed a more or less antagonistic attitude towards the government. Then on January 21, 1874, came the attack upon Prince Iwakura by several discontented partisans who sympathised with the war policy of the seceders. In February an insurrection in Saga was instigated and conducted by the ex-councillor Yeto, who had signed the famous memorial. Meanwhile, Itagaki and Saigo returned to their native provinces, Kochi and Kagoshima. There Itagaki organised a political association called the *Risshisha* for the purpose of education in political science and the propagation of the idea of representative institutions, while Saigo established a private school for military education.[1]

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[1] A complete translation of the article is given in *The Japan Mail*, February 24, 1874, pp. 98-99. The above extract was translated from the original Japanese text.

[2] Vide *ibid.*, May 13, 1874, pp. 275-77, for a translation of the reply. It is very interesting to see that they quoted freely from Mill's *Representative Government* to support their views.

[3] *Seitoshi*, p. 18.

These events alarmed the government, which planned a Formosan expedition to divert the thoughts of the discontented from home politics. In May 1874, 3000 men were sent out to Formosa under the command of Saigo Yorimichi, a younger brother of Saigo Takamori (who was the leader of the Korean war party), to chastise the aborigines for the frequent murder of shipwrecked sailors from Japan and the Riu-kiu Islands.[2] At the same time, on April 14th, an Imperial Decree was issued convening the Assembly of Prefectural Governors (*Chiho Chiokwan Kwaigi*) as a first step towards the establishment of representative institutions.[3]

Meanwhile a reconciliation between Okubo on the one side and Kido, Itagaki, and Goto on the other, was planned by Ito and Inouye;[4] and a meeting at Osaka was arranged, which is known in history as the "Osaka Conference." The compromise then suggested by Ito provided that[5]:—

1. A Senate (*Genro-in*) as a legislative chamber should be established in order to guard against the monopolising of the administrative authority by a few persons, and also to pave the way for the future establishment of an elective assembly.
2. A High Court of Justice (*Taishin-in*) should be

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[1] This Saigo is Saigo Takamori, or Saigo Kichinosuke.

[2] Several contemporary comments and criticisms are to be found in the *Japan Mail*, June 5, 1874.

[3] On May 2nd the Regulations of the Assembly of Prefectural Governors was promulgated.

[4] A few months previous to this, Kido left the government, as he did not agree to the policy of the Formosan Expedition.

[5] *Seitoshi*, p. 27.

established in order to make the judiciary independent of the executive.[1]

3. An Assembly of Prefectural Governors (*Chiho Chiokwan Kwaigi*) should be convened in order to become more closely acquainted with the real conditions of the people.
4. The several departments of government should be further subdivided, in order to secure the sufficient specialisation of the executive, legislative, and judicial functions.

All, save Itagaki, were satisfied with the measures and agreed to take a portfolio in the government. Itagaki demanded the establishment of an elective legislative assembly, instead of the Senate (*Genro-in*), which was to be a non-elective body. It happened, however, that Itagaki was returned to office as a Councillor, because he had been especially sent for by His Imperial Majesty the Emperor.

The return to office of Itagaki, the foremost leader of the constitutional movement, caused the active agitation to slacken for a time. But Itagaki did not remain long in office. In the beginning of 1876 he tendered his resignation and left the government, because certain items of the reform measures agreed to at the Osaka Conference were postponed on account of the Kōkwa-wan affair in Korea.[2]

It was about this time that the first signs of reaction against the Liberal movement appeared. On June 28, 1875, the old Press Law of October 1873, which had scarcely put any restriction on the freedom of the Press, was repealed, and a drastic new Press law as well as a new law of libel were enacted. Thus the freedom of the Press and of publication was considerably restricted. Any one who slandered or sharply criticised a government official was liable either to imprisonment or fine.[1] The government enforced these stringent measures with great determination. The arrest of newspaper editors was an almost daily occurrence.[2]

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[1] Believing the theory of Montesquieu regarding good government, the leading statesmen of Japan had tried to divide the government into three distinct branches—executive, legislative, and judicial.

[2] In September 1874 the Koreans had fired upon the *Unyokan*, a Japanese warship. The affair was, however, amicably settled and a treaty of friendship and commerce concluded on February 26, 1876.

While this struggle for a constitutional government was going on, the rebellion of Satsuma in 1877 threatened the peace of the country.[3] It had its origin in the split in the Council of State in 1873. The leader of the rebellion was Saigo Takamori, once the idol of the Japanese soldiers. His great services during the Restoration, his extraordinary valour, military knowledge, unselfishness, and loyalty had carried him to the highest position in the Japanese army. But he left the government after the rejection of the Korean war policy, and returned to his home in Kagoshima, established a private school there, and devoted himself to military education. He held himself aloof from his former colleagues, and did not take part in the constitutional movement; he was more or less anti-foreign in sentiment, and opposed the hasty adoption of Western civilisation. Many efforts were made by the government to induce him to re-enter office, but all in vain. So great was his influence, so imposing his personality that his military school practically dominated his native province, Satsuma, and even the Governor of the Prefecture submitted to his control. The government becoming aware of this dangerous movement took several precautionary measures. But it was their attempt to remove the arsenal from Kagoshima to Osaka, which, arousing opposition among the friends and followers of Saigo, finally carried him into the torrent and involved the country in a great civil war. The followers of Saigo numbered altogether about 30,000; the government sent out more than 60,000 men, and took about seven months, from February to September, to defeat the insurgents and to restore peace.[1]

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[1] The Law of Libel, Art. II. III. IV.

[2] A leading newspaper, *The Akebono*, writes as follows: "But in glancing back at the history of any nation whatever, we have never heard of all the editors of a whole city being brought up before the courts for violating the laws or inciting the people during a whole month, nor that, while one editor is on his trial, another is brought up, and before judgment is given against him, before even his trial comes off, another is brought in, and thus no day passes without the trial of an editor. No, we have never heard of such proceedings, nor do universal histories furnish any parallel for them," &c. Vide the *Japan Mail*, August 24, 1875, p. 491.

[3] A short account of this is given in Rein's *Japan*, pp. 370–375.

While the government was busy with the Satsuma rebellion, the agitation for a constitutional government redoubled. Again, a memorial for the establishment of an elective assembly was addressed to the imperial Court, then at Kyoto, by Kataoka Kenkichi, a representative of the *Risshisha*, but was not accepted. Later, Kataoka and more than twenty members of the *Risshisha* in the Kochi Prefecture were arrested and imprisoned. It seems, however, that their arrest was a precaution on the part of the government to prevent the spreading of the Satsuma rebellion.

Though the Satsuma rebellion had nothing to do with the constitutional movement, yet it seems to have helped to arouse the political activity of the people. Towards the conclusion of the civil war in 1877, the constitutional movement had spread throughout the country; and there sprang up several strongly organised political factions with quarters in different parts of the realm. From time to time many able propagandists were sent out from the headquarters of these factions to instruct the people in matters concerning representative institutions.

In 1879 the people of the Okayama Prefecture presented a petition to the government for the establishment of a national assembly, and simultaneously sent out a circular urging the co-operation of the people in this campaign.[2] In January 1880 another memorial was addressed to the Senate (*Genro-in*) by the *Kioaisha* (a political association) of Fukuoka, urging Treaty Revision and the establishment of an elective assembly.

In March of the same year a great congress of all the political associations was convened in Osaka, and held a demonstration demanding the establishment of an elective legislative assembly. Twenty-seven different associations from twenty-four prefectures, and having an aggregate of over 87,000 members, were represented;[3] a resolution was passed to present a petition to the government in the name of the "United Association for the Establishment of a National Assembly" (*Kokkukwai Kisei Domeikwai*). Kataoka and Kono were elected to act as delegates.[1] They immediately proceeded to Tokyo and laid the petition before the Prime Minister (*Dajo-daijin*).[2] It was addressed to the Emperor, but its transmission was refused by the secretary of the Prime Minister on the ground that the people had no right to present political petitions.[3]

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[1] The figures are taken from Ariga's *Teikokushiriaku*, pp. 965, 966.

[2] Kokkukwai Kaisetsu no Seigwanshio, Dec. 1879.

[3] The figures are taken from Kudo's *Gikwai Shiko*, p. 14.

Okuma (afterwards Count Okuma) was then in the government and at the zenith of his power. Kido had died at Kyoto during the civil war of 1877. Okubo, "the pillar of Japan," to whose wisdom and statesmanship the country owed most of the great work of the Restoration in the first decade of Meiji, and who had always prudently resisted reckless impetuosity, was no more; on May 14, 1878, he fell at the hands of political assassins.[4] Thus, Okuma, as Minister of Foreign Affairs and Finance, was practically at the head of the active departmental ministers.

Perceiving a strong popular sentiment in favour of the establishment of a national assembly, he secretly plotted to increase his own power and popularity by siding with the people, and at the same time putting an end to the dominant power of the clansmen of Satsuma and Choshiu in the government.[5] We have already seen that the revolution against the Tokugawa government was chiefly planned and carried out by the clansmen of the four great Western *daimios* —Satsuma, Choshiu, Hizen, and Tosa. Consequently, the new administration had fallen largely into the hands of the clansmen of these four *daimios*, so that the government was called the "Satt-chio-dohi government."[1] But the split in the Council of State in 1873 incidentally produced a preponderance of the clansmen of Satsuma and Choshiu, so that the government was then called the "Satt-chio government."[2] Okuma was a *samurai* of Hizen and did not belong to the party of Satsuma or Choshiu. Therefore, he desired to strike a blow at the dominant power of these clansmen. With this end in view, he had suggested to Prince Arisugawa, *Sadaijin*, and Iwakura (afterwards Prince) *Udaijin*, the advisability of establishing a national assembly as early as 1883.[3] When this was discovered, Okuma was strongly opposed by his colleagues, the coteries of the Satt-chio clansmen; and a ministerial crisis seemed inevitable.

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[1] The petition was a lengthy document embodying many arguments in favour of the establishment of a national assembly, largely based on visionary ideas of representative institutions, and mingled with patriotic sentiments. It stated that "Absolutism destroys patriotism, weakens the unity of the nation, and endangers the safety of the Imperial Throne. The unity of a nation can be secured only when the people participate in the government and understand the affairs of the State; a country can maintain its independence only when the people possess a self-governing spirit. We pray that His Imperial Majesty will grant a constitutional government in accordance with the Oath of the Restoration."

[2] The Prime Minister was then the highest dignitary; the real administrative authority was exercised by the departmental ministers.

[3] *Vide* Kono's *Reminiscence*, *Seitoshi*, appendix.

[4] Okubo, being the most influential figure in the government, was regarded as one of the chief opponents of Liberal reform and of Saigo Takamori, with whose fate much sympathy was felt. It was this misapprehension which led to his assassination.

[5] The word "clansmen" has not the same significance as when used for the Scotch Highlanders. *Han* in Japanese, which is translated "clan," is very different from a Scottish clan. *Han* simply means a local or provincial community ruled over by one and the same feudal chief, who is merely the hereditary military governor of the district, and conveys no idea of a common ancestor, an idea always associated with a Scottish clan.

Just then, too, the government was subjected to bitter criticism on account of the behaviour of Kuroda, President of the Board of Colonisation and a Councillor, with regard to the proposed disposal of the government's industrial undertakings in Hokkai-do. It transpired that the property of the government which had cost the country more than 14,000,000 *yen*, was to be sold for 300,000 *yen* to a private corporation (*Kwansei Boeki Shiokwai*), with which Kuroda had intimate relations.[4] Okuma opposed the sale from the beginning. When it was, however, decided by a majority of the Council of State, he attacked the government through the medium of the newspapers.[5]

Every weakness of the government was a gain to the constitutional agitators. And they increased their activities to such an extent, and aroused popular sentiment to such a degree, that the peace of the country appeared to be threatened, unless the government took some measure to appease the excitement.

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[1] Satt-chio-dohi is an abridged form of Satsuma, Choshiu, Tosa, and Hizen.

[2] Satt-chio is an abridged form of Satsuma and Choshiu. *Vide*, for detailed information of the formation of the Satt-chio government, the *Japan Weekly Mail*, February 13, 1886, p. 149, an article on Satsuma and Choshiu translated from the *Nichinichi Shimbun*.

[3] *Sadaijin*, Minister of Left, and *Udaijin*, Minister of Right, were the dignitaries of the Court and higher in rank than any departmental minister.

[4] *Seitoshi*, pp. 37, 38.

[5] *Ibid.*

On the 12th of October 1881 the government revoked their decision concerning the sale of the industrial undertakings, and at the same time issued an Imperial Decree commanding the establishment of a national assembly in 1890, and ordering all the necessary preparations to that end. Meanwhile, Okuma was advised to resign his office.

In March 1882, Ito and his suite were despatched to Europe to study the political institutions of the West with a view to preparing a Constitution for Japan. Thus the first stage of the constitutional movement closed peacefully.

CHAPTER III

THE SECOND STAGE OF THE CONSTITUTIONAL MOVEMENT

IN the preceding chapter we saw that the political agitators for a representative system of government had virtually attained their object. The Imperial Decree of the 12th of October 1881 definitely fixed the date of the establishment of a national assembly, and it also announced that the powers and organisation of the assembly would be decided by the Emperor and duly proclaimed. It was therefore no longer necessary for these constitutional propagandists to exert their efforts. Yet, as nine years were to elapse before the first convocation of the promised assembly, it was scarcely possible for them to desist from all political activity, though their cause was already victorious. Moreover, it was necessary for them to prepare for the more specific and definite problems of the coming *régime.* It is the object of this chapter to investigate the course of the political current in the nine years preceding the establishment of the Imperial Diet.

Already, at the meeting of the "United Association for the Establishment of a National Assembly," held at Osaka in March 1880, certain delegates had suggested that a political party should be organised with definite principles on a permanent basis.[1] But no such conclusion was reached, the majority present considering it premature, for the prospect of the establishment of a national assembly was not yet certain.[2] But those who had advocated the formation of a political party for permanent purposes organised themselves, independently of the others, into a party known as the *Jiyuto,* or Liberal Party, and adopted a manifesto, in which they announced that they would endeavour to extend the liberties of the people, to preserve their rights, and to promote their happiness, and that they believed in the equality of all Japanese subjects, and in the nation's adaptability to constitutional government.[1]

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[1] *Seitoshi,* p. 39.

[2] *Ibid.*

However, when the question of the establishment of a national assembly was definitely settled, an attempt was made on the part of the leaders of the "United Association for the Establishment of a National Assembly" to amalgamate with the Liberals and form one strong party. This was successfully effected, and the Liberal Party was reorganised. On the 30th October 1881 it issued a new party programme, or platform, as Americans call it, which ran as follows :—

1. We endeavour to extend the liberties of the people, preserve their rights, promote their happiness, and improve their social condition.
2. We desire to establish a constitutional government of the best type.
3. We shall strive to realise our objects by the united efforts of those of our fellow-countrymen who faithfully uphold these principles.

The leader of the party was Itagaki Taisuke, who has often been called, justly or unjustly, the Rousseau of Japan, for the obvious reason that he was the most passionate advocate of the natural rights of man. In 1873 he resigned his post of councillor on account of the Korean question and took a leading part in presenting to the government the first memorial urging the establishment of a representative legislative assembly. Since then he had devoted himself heart and soul to the cause of constitutional government and popular rights. In 1875 he was invited to re-enter office on the understanding that certain concessions to his political principles would be made, but he flatly refused to accept the invitation, as the compromise proposed by Ito, the arbitrator, contained no provision for the introduction of an elective legislative chamber.[2] It is true that he was premature in wanting the assertion of certain general abstract principles, and that his views of representative government were visionary and inapplicable to practical politics, but it is also true that he was a man of principle and independent opinion, and the most consistent of the politicians of the period. His strong personality, vigorous speech, earnestness, and integrity gained him many followers. In fact, he was the nucleus of the Liberal agitation throughout the entire period of the constitutional movement. Captain Brinkley said, and with truth, that possibly the parliamentary problem might have passed for a time out of the nation's sight after the fiasco of the Kogisho,[1] had it not been so ardently taken up by Itagaki Taisuke.[2] However, I do not deny that the extremists of the Liberal Party, led by Itagaki, sometimes employed violent revolutionary methods and certainly disturbed the public peace; and consequently the Liberal Party aroused considerable prejudice, and was sometimes condemned as a camp of hooligans, fanatics, Girondists, and Jacobins. But it is not just to depreciate the services of Itagaki, because of the lawlessness of the extremists of his party. In all fairness it must be said that, as regards the establishment of representative institutions in Japan, as much credit must be given to Itagaki as to Okuma and to Ito.

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[1] *Seitoshi*, p. 39.

[2] *Supra*, p. 82.

Next to the Liberal Party came the Constitutional Progressive Party, or *Rikken Kaishin-to*.[3] It was organised on the 15th March 1882 by Okuma and his adherents, and was the result of amalgamating several smaller factions.

We have seen that the year before, in 1881, Okuma had been forced to resign office in the Cabinet, when it was discovered that he had secretly planned the early introduction of constitutional government in order to strike an effective blow at the dominant power of the clansmen of Satsuma and Choshiu.[4] But Okuma had many sympathisers. More than sixteen of the most promising young men holding posts as secretaries in the various departments of the government seceded with him.[1] It is interesting to note that this split in the Ministry, like that of 1873, incidentally had an important bearing upon the development of the constitutional movement. It has been said that the schism in the Council of State in 1873 resulted, on the one hand, in the inauguration of an active agitation for a constitutional government, and, on the other, in the accidental formation of the "Satt-chio government,"[2] largely the cause of Okuma's secret plot. Likewise, this split in the Ministry led immediately to the organisation of the Constitutional Progressive Party by the seceders, and so ultimately accelerated the establishment of a national assembly.

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[1] *Supra*, p. 58.

[2] *Japan and China*, vol. iv. pp. 221, 222.

[3] The *Rikken Kaishin-to* may be translated literally as the Constitutional Reform Party. But as it came to be known later as the *Shimpo-to*, or Progressive Party, I translated the word "Kaishin" as Progressive instead of Reform, in order to make the history of the Party clearer to the foreign reader.

[4] *Supra*, pp. 85, 86.

Okuma combined an admirably scholarly taste with a magnetic personality and great eloquence. Many young men of education, refinement, and advanced thought enrolled themselves in his party. Therefore, the *personnel* of the Constitutional Progressive Party was very different from that of the Liberal Party. The former was moderate in thought and action, while the latter was radical and sometimes even violent. The difference of the two parties may be observed in the difference of their party programmes. The programme of the Constitutional Progressive Party was as follows:—

1. Our objects are to preserve the dignity of the Imperial House and promote the happiness of the people.
2. We maintain that internal reform should precede the extension of national rights and prestige.
3. We endeavour to establish local self-government, restricting the sphere of interference by the central authorities.
4. We do not maintain that a universal franchise should

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[1] Among the seceders were Yano Fumio, secretary of the Premier's Office (later a prominent journalist), Shimada Saburo, secretary of the Educational Department (M.P. since the first session of the Diet), Inukai Ki and Ozaki Yukio, secretaries of the Account Department (the former an M.P. and one of the leaders of the Progressive Party, and the latter M.P. and Mayor of Tokyo), Kono Binken, Minister of Agriculture and Commerce, Mayejima Mitsu, Postmaster-General, Komatsubara Yeitaro, secretary of the Department of Foreign Affairs (now Minister of Education), &c. Japanese write the surname before the Christian name.

[2] *Supra*, p. 86.

be granted, but that the extension of the franchise should be *pari passu* with the progress of society.

5. We advocate that all possible complications with foreign nations should be avoided in order to promote commercial intercourse.
6. We advocate a reform of the monetary system on the principle of the "hard money system."

On March 19, 1882, certain supporters of the government, with the intention of opposing these two parties, formed a third, known as the *Rikken Teiseito*, or Constitutional Imperialist Party. Among its chief promoters was Mr. Fukuchi, an editor of the *Nichinichi Shimbun*, one of the leading newspapers, then branded as a *Goyo Shimbun*, or "Herald on Official Service," because of its staunch allegiance to the government. As far as numercial strength is concerned, this party was almost insignificant compared with the other two, but its influence upon the constitutional movement was not less important. A strong reactionary current created by these Imperialists against ultra-Liberalism, though not readily expressed at the time, exercised a very marked influence upon the Constitution of Japan—an influence which will be discussed in the following chapter.

If the programmes of these three parties are compared, it is not very difficult to understand the main currents of political thought in Japan at this period.

The programme of the Constitutional Imperialist Party mainly consisted of the following Articles :—

1. We pledge ourselves to support the Imperial Decree of October 12, 1881, which fixes the date of the convocation of a national assembly for 1890, and to refrain absolutely from any discussion of its alteration.
2. We pledge ourselves to abide by the Constitution to be granted by the Emperor, as proclaimed in the said Imperial Decree.
3. We maintain that it is indisputable that the sovereignty of the Empire resides in the Emperor, and that the exercise of certain powers by the national assembly should be regulated by the Constitution.

4. We believe it necessary that the Legislature should adopt a two-chamber system.
5. We also believe it necessary to restrict the electorate by some system of qualification.
6. We maintain that the national assembly should be given the power of enacting laws concerning the internal affairs of the State.
7. We believe it necessary that an absolute veto over all legislation should be left in the hands of the Emperor.
8. We maintain that naval and military men should be excluded from the politics of the country.
9. We maintain that the holders of all judicial offices should be made independent of the Executive, with the complete development of the judicial system.
10. We maintain that freedom of meetings, associations, and public speech should be restricted only in reference to the disturbance of the public peace.
11. We also maintain that the present inconvertible paper money should be changed into convertible paper money by a gradual reform of the monetary system.[1]

Thus, within five months of the proclamation of the Imperial Decree there appeared three great political parties, each with its own programme. Their sole task was the propagation of political principles. All of them were more or less under the influence of Western political philosophy of the eighteenth century. They actively and enthusiastically engaged in controversy about *à priori* propositions. The main point of their controversy was the question of the sovereignty of the Empire.

First, the Liberal Party argued that a country exists chiefly for the people, and not for the sovereign or a few persons. The sovereign rules it for the people and not for himself. Hence, sovereignty of a country resides in the people.[2] Then the Constitutional Imperialists refuted this view, saying that in our country the people from time immemorial had been the subjects of the sovereign, and there was no spot in the whole dominion which did not originally belong to the imperial family. Moreover, it was the Emperor who had decided to establish a national assembly and had promised the people a Constitution. These facts conclusively showed that the sovereignty of the Empire lay absolutely in the hands of the sovereign.[1] The Progressive Party took the middle course. They contended that an elective legislative chamber is the body which represents both sovereign and people; the absolutism of the monarch disappears with the establishment of a constitutional government; and, therefore, in a constitutional country, the sovereignty of the State must reside in the national assembly, as in the case of the House of Commons in England.[2]

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[1] It ought to be borne in mind that this was a period of controversy on abstract political doctrines and theories, and that party controversies were mainly academic in nature,

[2] The Hakubunkwan, *Seitoshi*, p. 48.

As to the system of legislature, the last two parties advocated the establishment of a two-chamber system, while certain Liberals argued in favour of a single chamber.

Logically, the Liberals were more consistent than the other two. They carried their theory of the sovereignty of the people to its logical conclusion, and ventured to suggest the convocation of a constituent assembly for the purpose of drawing up a Constitution. It is interesting to note that these Radicals, however, unlike the Girondists and Jacobins of France, could not conscientiously express an opinion regarding the abolition of the monarchy.

Under ordinary circumstances an academic discussion of abstract political principles would not have aroused the curiosity of the people, but this was an occasion of great commotion. The proclamation of the Imperial Decree announcing the establishment of a national assembly had just caused the greatest excitement. Every one, whether politician, farmer, fisherman, mechanic, tradesman, or artisan, talked about the establishment of a *Kokku Kwai*, or national assembly. Of course, to many of them the establishment of a *Kokku Kwai* meant no more than any other great innovation. But all the people were interested in political discussion and readily accepted new ideas. So Liberalism spread rapidly, and the political parties found many followers.

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[1] *Seitoshi*, p. 48.

[2] *Ibid.*

At that time Japan desired the revision of the treaties with the Western Powers, so that she might have autonomy in her custom tariff and obtain the abolition of the extra-territorial jurisdiction. But she was frequently told that it was impossible for her to obtain the revision of the treaties, as her political institutions and her codes of law were not sufficiently advanced to be entrusted with the life and property of the enlightened people of the West. Therefore, to rid herself of this humiliation, many people desired the introduction of constitutional government, while those who might otherwise have opposed it were silenced.

It was about this time that an event occurred which immortalised Itagaki, the leader of the Liberal Party. While he was lecturing at a meeting of Liberals in Gifu on April 6, 1882, he was attacked by a desperate youth with a dagger. The youth on surrendering himself to the police gave as the reason of his attempted crime that he had stabbed Itagaki because he was an enemy to his country. Itagaki shouted, when he fell wounded, "Itagaki may die, but liberty for ever!" The words of Itagaki rang from one end of the country to the other, and still remain on the lips of many Japanese people.

The pendulum swings back again. Great excitement is naturally followed by slackness. The abolition of *monsieur* and *madame* and the adoption of *citoyen* and *citoyenne* in the first Republic of France brought back the absolutism of Louis XIV. under Napoleon Buonaparte. When the English woman suffragists chained themselves to the grille of the gallery in the House of Commons and to the chairs in the Albert Hall, many ladies presented a petition to the government against the suffrage movement.

Before the inception of the political campaign for constitutional government there was scarcely any restriction to the liberty of the Press and of public meetings in Japan. But in 1875 a Press Law was promulgated, by which the freedom of both Press and publication were considerably restricted.[1] In 1880 a Law of Meeting and Association was enacted, by which all political meetings and associations were placed under the strict supervision of the police.[1] In 1882 it was revised and made more stringent than before.[2] Indeed, it was one of the most drastic measures of the kind ever enacted in Japan.

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[1] *Dajokwan Fukoku*, No. 101, 28th June 1875.

Under this law all political associations were compelled not only to make a report to the police of their constitutions and bye-laws, with all names of their members, but also to notify from time to time every new entry and resignation.[3] No meetings, either for study, or for debate or discussion of political topics, were allowed to be held anywhere without permission of the police obtained three days beforehand.[4] To advertise the subject of political lectures and debates, or to induce any one to join the meeting or even to send out a letter of invitation, or to establish any branches of a political party or association, or to make any communications between different parties and different associations, or to have any outdoor meetings for political purposes, was prohibited.[5] Even a purely scholastic debating club or meeting, when it discussed a political problem, was subjected to police supervision.[6] The police were empowered to interfere with or suspend or dissolve any political meeting on the ground of the preservation of public peace. Not infrequently the police exercised a really arbitrary power by order of the Minister of the Interior himself. In fact, the enforcement of the law was more drastic than its letter.

It is evident that under such circumstances the prospects for the growth of political parties were not bright. The most persistent policy of the government was to crush the organised activities of the political parties; for the "clan statesmen" in office feared the possible formation of a union of the Liberal and Progressive Parties, which, had it been effected, would have constituted a formidable force against them. There is scarcely any doubt that the prohibition of inter-communication between political parties was mainly aimed at the prevention of this union.

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[1] *Dajokwan Fukoku*, No. 3, 5th April 1880.

[2] "Shukwai Jorei revised," *Dajokwan Fukoku*, No. 27, 3rd June 1888.

[3] "Law of Public Meeting and Association" (Shukwai Jorei). Art. II.

[4] *Ibid.* Art. III.

[5] *Ibid.* Arts. VIII. IX. XVI.

[6] *Ibid.* Arts. V. VI.

It was said that the government, with this end in view, successfully induced Itagaki, the leader of the Liberals, to start on a European tour. At any rate, Itagaki in company with Goto left Japan for Europe in November 1882, against the will of many of his followers;[1] and a bitter quarrel arose between the Liberals and the Progressives. A newspaper, the organ of the Progressive Party, of which Okuma was the leader, accused Itagaki and Goto of having their journey to Europe paid for by the government.[2] This provoked some of the Liberals and caused a vehement counter-attack upon Okuma and his party. It was alleged that improper relations existed between the members of the Progressive Party and the *Mitsu Bishi* Company, and that this Company's enormous accumulation of wealth was chiefly due to the government subsidy secured to it by Okuma when he was in office.[3] It is not certain whether the government or some of its supporters did really persuade Itagaki and Goto to take a European trip and bear the expense of it, with the idea of plunging the two parties into bitter hostility during their absence; but there is evidence that certain officials of the government, directly or indirectly, encouraged the quarrel to the advantage of the government.[4]

For the time being, at least, it made the union of these two formidable parties impossible. Nay, it produced considerable disunion and disruption within the parties themselves, and brought public discredit upon all political organisations.

Meanwhile the government pushed its stringent policy for the suppression of the political activities of the people still further. On April 16, 1883, the Press Law of 1875 was revised.[5] Under the original law the editor of a newspaper alone was made responsible for the articles which appeared in the paper; but under the revised law, not only the editor, but also the proprietor and even the manager, of the paper were made jointly punishable in the case of infringement of libel regulations. Those who desired to start a newspaper were required to deposit with the government a sum of money as security, a sum fixed so high as to be almost prohibitive. Besides, the enforcement of the law was so rigid that matter which might have been regarded at any other time as a joke, as wit, satire, or sarcasm, was treated as libel. Indeed, the suppressions and suspensions of newspapers and the arrests and imprisonment of the editors, proprietors, and managers were of daily occurrence.

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[1] Their absence from Japan extended from November 1882, until June 1883.

[2] Okuma, *Kwaikoku Gojiunenshi*, vol. i. p. 337.

[3] Lay, *History of the Rise of Political Parties of Japan*, p. 392; *Seitoshi*, pp. 49, 50.

[4] *Ibid.*

[5] *Shimbun Jorei*, April 16, 1883.

The government may have been justified in adopting such repressive measures, but it must be admitted that they considerably retarded the development of the Press and of political parties, both of which were indispensable in educating the people for popular government. Many newspapers could not survive the heavy pressure of the Press Law; and almost all political parties, after dragging on a moribund existence for a while, found the drastic Law of Public Meeting and Association and the strict supervision of the police too much for them and decided to dissolve.[1]

It should also be added that the adoption of these rigorous repressive measures created a retaliatory spirit among the Radical extremists. They caused much violence and accentuated the difficulty of the situation. They dreamed of the French Revolution, and shouted, "No liberty without blood." I shall not, however, attempt to enter into the details of their riotous actions. Suffice it to say that these included plots to overthrow the government;[2] conspiracies

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[1] The Constitutional Progressive Party was dissolved in September 1883; at first many members opposed dissolution, but the resignation of Okuma prompted that course. In October the following year the Liberal Party took the same step. Meanwhile the Constitutional Imperialist Party was also dissolved.

[2] One of the most sanguinary attempts at rebellion against the government occurred in the Prefecture of Fukushima. The immediate cause was the arbitrary action of the Governor, Mishima Tsūyo, in over-riding the decision of the Prefectural Assembly. Irritated by this, the Liberal extremists secretly made a plot to rebel against absolute government. The plot was discovered, and six of the leaders of the conspiracy were arrested and sentenced to imprisonment for six or seven years. The substance of the conspirators' oath was as follows:—

1. We pledge ourselves to endeavour to overthrow absolute government and establish a representative system of government.
2. We pledge ourselves that, in order to attain this end, we will not hesitate

to raise revolutionary armies; attempts to assassinate Ministers; and a scheme to stir up an insurrection in Korea.[1]

But so effective was the vigilance of the police that all plots and conspiracies were always discovered almost before they were hatched. It happened sometimes that fifty or sixty persons were arrested at one time and punished with the utmost severity. In fact, some of them were sentenced to six or seven years' imprisonment, and some even for life. In the case of the Kabayama Affair, which was an attempt to raise a revolutionary insurrection, the conspirators were tried for murder and robbery, instead of political offence.[2] Thus the will of the officials of the government was paramount. They never lacked resources to meet an emergency. They could make and unmake laws at any time just as they desired.

There is much to be said against the arbitrary, irre-

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to sacrifice our life and property, and even our affection for the members of our family.

3. We pledge ourselves to be bound by the constitution and decision of the party.
4. We pledge ourselves not to dissolve our party until we accomplish our object, however great the difficulty and the hardship.
5. We also resolve that any one failing to keep the oath and our resolutions secret shall be obliged to take his own life.

[1] The plot to stir up an insurrection in Korea was planned by Ōi Kentaro and his accomplices. It is known in Japanese history as the "Osaka Affair." They were infatuated with the French idea of *liberté, égalité, and fraternité.* They became desperate when their energetic activities were paralysed by the repressive measures of the government, and thought that if, by going over to Korea and assisting the Progressive Party of that country, they could succeed in establishing a popular government there, it would promote their cause in Japan. All preparations were made. They were about to sail from Osaka with a quantity of arms and ammunition when the plot was discovered. It was on November 23, 1885, that thirty-seven of these conspirators were arrested in Osaka. *Vide* Nihongitō-no-Gekibun.

[2] In September 1884, certain Liberals quartered at Kabayama raised a revolutionary army. They issued a circular by which they urged the people to rebel against the absolute government and join their force. The circular says: "Government is instituted for the protection of freedom and natural rights of the people and not the enactment of tyrannical laws to oppress them. It is lamentable that the country has not yet obtained a revision of the treaties nor a National Assembly. The administration of the State is in the hands of a few officials, *who do not much respect the Imperial House.*" More than ninety were arrested and tried for murder and robbery. Five of them were put to death, and many sentenced to penal servitude for ten or twenty years, or for life. Vide *Seitoshi*, p. 54.

sponsible actions of the government at this period. But we ought to bear in mind that the government had to keep peace in the country, while there were many political fanatics seeking to establish by any methods, no matter how desperate, the direct applications of their abstract political principles. It is also true that, at the very time that the government was dealing with political agitation and propagandism so severely and resolutely, the leading statesmen in power were steadily preparing for the inauguration of the promised constitutional *régime*.

In August 1883 Ito Hirobumi returned from Europe and set himself to the task of drawing up a Constitution and of remodelling the Cabinet system. Ito had remained abroad about eighteen months for the investigation of political institutions in the West. His longest sojourn was in Germany. It is said that while he was there he became a great admirer of Prince Bismarck, and attentively studied the administrative methods of that eminent statesman and the Prussian bureaucracy.

His first step towards the establishment of a constitutional *régime* was the rehabilitation of the nobility. The Restoration of 1867 and the subsequent abolition of feudalism swept away the titles and the official rank of the Court nobles and feudal lords—*daimios*—so that the Court nobles and ex-*daimios* were not titularly distinguished from the rest of the people, though the old social demarcation still remained. In July 1884 the new orders of nobility—prince, marquis, count, viscount, and baron—were instituted by Ito's advice after Western fashion and conferred upon the old Court nobles and ex-feudal chiefs according to their old ranks;[1] while those who had rendered signal service in the Restoration were raised to the rank of the nobility. The number of peers then created, old and new together, was 505. This rehabilitation of the nobility was a great success, and Ito's popularity was overwhelmingly increased among the nobles and the official class.

His next step was the remodelling of the Cabinet system,[2] so that it might suit the working of the Constitution which he then contemplated. Hitherto, the administrative business of the government had been considerably confused, there being no clear division between the various departments, so that the work of one department often overlapped that of another. Yet one departmental Minister was almost independent of the other, and no Minister was responsible for the entire administration of State. The Premier, or *Daijo Daijin,* issued all important laws and notifications, but he did not direct the policy of the State. Under the new Cabinet system the Minister President (*Naikaku Sori Daijin*) was, like the Chancellor of Germany, responsible for the entire administration of the State, while all departmental Ministers were subjected to his direct guidance and at the same time accountable for all the affairs of their own departments.[1] Ito himself became the first Minister President under the new Cabinet system.

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[1] Vide *Kwazoku Rei*, July 7, 1884.

[2] Imperial Rescript, December 23, 1885.

Another great reform then brought forward by Ito was the introduction of the Civil Service examination system for official appointments.[2] Hitherto official appointments had been largely a matter of personal favour ; it had been hardly possible for any one to attain a high official position without much wire-pulling.[3] This was one source of discontent among the political agitators, and from it they drew much political capital in attacking the government. The reform, though it had no direct reference to the new constitutional system of government, then under contemplation, had a deterrent effect upon official favouritism, and led to great improvements in the machinery of administration.

But, notwithstanding this steady progress towards the establishment of a constitutional *régime,* the government was vehemently attacked on account of its foreign policy.

When the Korea Affair of 1882–1884 and the subsequent trouble with China were favourably settled by the Treaty of Seoul, January 9, 1885, and by that of Tientsin, April 18th of the same year, the government proceeded to take up the revision of the treaties with the Western

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[1] Imp. Ord., No. 2, 1886.

[2] *Vide* Instructions to Ministers, Part II., December 26, 1885.

[3] *Ibid.*, the Preamble.

Powers, which had been for some time one of the most controversial problems in Japan. Count (now Marquis) Inouye was then the Minister for Foreign Affairs. He believed that the best way of obtaining Treaty Revision, or equality with the Western Powers as then understood, was to convince the Western nations that Japan was willing to adopt the laws, institutions, customs, and manners of the West; and, therefore, he considered the Europeanisation of the country as the necessary preliminary to Treaty Revision. His view and plan being approved by his colleagues, the Europeanisation of the country was carried out on a grand scale. A great hall known as the "Rokkumeikwan" was erected in Tokyo at government expense for social gatherings after the European model. European dancing lessons were given night and day; the adoption of foreign costume and coiffure by the ladies was officially encouraged; *soirées*, garden parties, and even fancy dress balls were introduced. The study of foreign languages was added to the school curriculum; and even the adoption of the English language and the abolition of the native tongue were suggested and advocated by many admirers of Western civilisation.

Thus, while pursuing this bombastic scheme of Europeanisation, and amidst the heightened sentiment of admiration for Western civilisation, foreign Powers were invited to consider the question of a revision of the treaties. On the first day of May 1868 a formal conference was opened at the Foreign Office between the representatives of the Treaty Powers and the Minister for Foreign Affairs, and after several sittings the terms of revision were practically settled. But when the draft of the contemplated revisions was known to the public, great dissatisfaction was manifested everywhere. The chief reason was that it contained a clause for employing foreign judges in the Japanese courts. Several Cabinet Ministers disapproved of the terms of revision. Even M. de Boissonade, a French jurist, then employed by the Department of Justice for the purpose of compiling a new Code, spoke out; he pointed out several defects in the draft, and showed the inadvisability of concluding the new treaty. Still stronger opposition came from the Conservatives, who had frequently supported the government. Naturally they were very adverse to the policy of Europeanisation; they not only opposed the terms of the revision, but also vehemently attacked the method by which the Minister for Foreign Affairs was seeking to accomplish it. Consequently Count Inouye, after communicating to the representatives of the Powers the adjournment *sine die* of the negotiations, resigned office on July 29, 1887.

This blunder of the government gave a good opportunity to political agitators. Many of the politicians scattered over the country ever since the dissolution of the leading political parties swarmed to the capital, attracted by the lively controversy over Treaty Revision. Then the *Daido Danketsu*, or Union-in-Large Party, was formed under the leadership of Goto. It found many followers, including some old Liberals, Progressives, Imperialists, and Conservatives, though, in a strict sense of the term, it was not a party at all, but a crowd of people discontented with the foreign policy of the government. Goto was not a man of principle like Itagaki, nor a man of thought like Okuma. He was a man after the type of Robespierre. Combined with intense passion and enthusiasm, he possessed the hypnotic power of persuasion. It was he who had succeeded in 1867 in advising the Shogun, Keiki, to restore the administrative power to the Emperor. In 1873 he resigned his councillorship, and took part with Itagaki in agitating for the establishment of a constitutional government. Now, at the moment of government failure in obtaining Treaty Revision, he urged the people to sink all minor differences and to unite together to form one large party, for the purpose of opposing the government. Multitudes, attracted by his personality, joined the party, as Mr. Toyabe says, without reason, without thought, and without object.[1] This naturally produced considerable turmoil and confusion, especially as more serious agitators, seizing the opportunity, renewed their activities. Itagaki and his followers again addressed a memorial for the removal of the rigid restrictions on freedom of speech and liberty of public meetings and associations, and for promptly obtaining the revision of the treaties.

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[1] *Seitoshi*, p. 68.

On December 25, 1887, the Peace Preservation Law (*Hoan Jorei*) was promulgated, the most repressive measure ever enacted since the Restoration. Under this Act all secret meetings and associations were strictly prohibited, and any person who violated this was punished by one month to two years' imprisonment, with in addition a fine of from 10 to 100 *yen*.[1]

In the case of the publication of books or pamphlets which were considered likely to disturb the public peace, not only was the author punished in accordance with the Publication Law, but all the printing machines and apparatus used for their publications were confiscated.[2] It also provided that any person residing within the radius of three *ri* (about seven miles) from the Imperial Palace in Tokyo, if suspected of disturbing the public peace, was liable to banishment from the district for three years.[3]

The law was put into force on the day of its promulgation. On the same day the Police Inspector-General, Mishima Tsūyo,[4] authorised by the Minister of the Interior, Yamagata, banished more than five hundred and seventy persons, including almost all prominent politicians and propagandists living in the capital.[5] Indeed, the operation had the severity of martial law. Those who asked the reason or explanation of their banishment were immediately arrested and thrown into prison, and those who appealed to the authorities on behalf of their banished friends met with the same treatment.[6] The peaceful citizens of the capital were stricken with terror; confusion reigned; bands of police officers were quartered everywhere; every department of government and the official residence of every Cabinet Minister were guarded by the soldiers. As far as Tokyo was concerned, a *régime* of terrorism was established. Indeed, it may be said that the city of Tokyo in 1887 was a small Paris of 1792.

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[1] Imp. Ord. (*Hoan Jorei*) No. 67, December 25, 1887, Art. I.

[2] *Ibid.*, Art. III.

[3] *Ibid.*, Art. IV. The reason that the Imperial Palace is mentioned is simply because it is in the centre of Tokyo. It should not be inferred that its aim was the protection of the palace from political turmoils. The Emperor was not concerned in any political question.

[4] *Supra*, p. 98.

[5] Among the banished persons were Ozaki Yukio (now the Mayor of Tokyo), Hoshi Toru (later Speaker of the House, Minister of Communications, Minister Plenipotentiary to the United States), Hayashi Yuzo (later Minister of Communications), Nakajima Nobuyuki (later Speaker of the House), &c.

[6] *Seitoshi*, p. 65.

But it must be kept in mind that the government adopted this exceptional harsh measure chiefly because it desired to suppress public criticism on the treaty question. Indeed, in Japan criticism of foreign policy is always severely treated by the government; while the people themselves are extremely sensitive on the subject of national prestige. It seems that the government was fully conscious of the unusual severity of the measure and aware of the aggravation of popular irritation. Therefore, as a means of reconciliation, the government invited Count Okuma, who had invariably sided with the people, to take the portfolio of Foreign Affairs and reopen the negotiations for Treaty Revision. Okuma accepted the invitation and returned to office in February 1888.

Meanwhile the government steadily prepared for the opening of the constitutional *régime*. On 28th April the Privy Council (*Sūmitsuin*) was established as an advisory board to the sovereign. On the 30th, Ito resigned his post of Minister President in favour of Kuroda, the Minister of Agriculture and Commerce, and became the President of the newly-created Privy Council, so that he might preside over the deliberations of the draft Constitution, which had been compiled under his direction, and was just then about to be submitted to the Privy Council for approval and final completion.

The Constitution was approved by the Privy Council after consideration and sanctioned by the Emperor. On 11th February 1889 it was promulgated by the Emperor in person in a most imposing and impressive ceremony, and all nobles and high officials of the State were summoned to witness the event. The day was commemorated by the granting of an amnesty to all political prisoners, while the people kept holiday and rejoiced at the dawn of a new era.

Between the promulgation of the Constitution and the first General Election, which took place 1st July 1890, there was no striking event, except a renewal of the controversy on the treaty question. When the new terms of revision negotiated by Okuma were first disclosed by a correspondent of the London *Times* (19th April 1889), they met with great opposition both within the government and without.[1] The clause that provided for the appointment of foreign jurists in the High Court of Justice produced great dissatisfaction. The chief opposition within the government came from Ito, President of the Privy Council, who maintained that it was not in conformity with the spirit of the new Constitution. On 18th October, Okuma, while driving back to the Foreign Office from a Cabinet Council—which had practically decided to postpone the contemplated revision of the treaty—was attacked and a bomb was thrown into his carriage, severely injuring his right foot. Thus Okuma was forced to resign, and once more the negotiations for the revision of the treaties were postponed.

With Okuma, Kuroda, the Minister-President, also tendered his resignation. And the formation of a new Ministry was not easy, as all the leading statesmen hesitated to take up the responsibility of office, fearing the difficulties of a first session of the Imperial Diet with the treaty question still unsolved. It was not until December that a new Ministry was gazetted under the Premiership of Yamagata.[2]

At this period the domestic politics of the country, in contrast to its foreign politics, remained calm and peaceful. Yet one thing that particularly requires our attention was the conspicuous absence of any well-considered comments on, or careful criticism of, the new Constitution. Even the old Liberal extremists who clamoured for freedom and liberty and the natural rights of man did not critically examine the composition of the Constitution. It is true that the question of Treaty Revision occupied the minds of the active politicians. But it seems to me that this absence of criticism was chiefly due to lack of a clear conception of freedom and liberty and the natural rights of man as well as of representative institutions. It was also due partly to the idiosyncrasy of the Japanese people. Consciously or unconsciously, they accepted the theoretical sovereignty of the Emperor. It was generally assumed that the Constitution was granted by the Emperor in accordance with the "Charter Oath" in the Restoration. Moreover, pride in the unique fact that a Constitution had been obtained in Japan without a bloody revolution blinded them when examining the Constitution itself. In addition, the leading statesmen and politicians, both in and out of office, were very anxious to secure the successful launching of the new Constitution. In fact, Itagaki and other prominent leaders holding Radical tenets were sincere in warning all their followers of the grave responsibility incurred in establishing a constitutional *régime*, and urged them to avoid all possible friction with the government for the sake of national honour.

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[1] *Vide* "The Treaty Drama in Japan," *The Times*, 19th April 1889, p. 6.

[2] During the interregnum Prince Sanjo acted as Minister President.

Thus the Constitution escaped comments and criticism, and the people, with the deepest sense of responsibility, began to work out its destiny and their own.

CHAPTER IV

THE FRAMERS OF THE CONSTITUTION

In the preceding two chapters I have dealt with the constitutional movement before the promulgation of the Constitution, and particularly with reference to the political agitators, ringleaders, and propagandists, who were mostly non-official and outside the government; and in this chapter I propose to deal with the same movement, with special reference to the leading statesmen and politicians who were in the inner circle of the government, the object being to determine, as far as possible, the force, the national ideas, and the political theories dominating those by whom the Constitution was framed and accepted.

By the constitutional framers I do not mean only Count (afterwards Prince) Ito, under whose direction the Constitution was drawn up and adopted, and Mr. (afterwards Viscount) Inouye Ki, the chief author of the document, and his co-workers, Messrs. (now Viscounts) Ito Miyoji and Kaneko Kentaro, &c., but I include all those who took part in the deliberations of the draft Constitution in the Privy Council. It is not, however, their personality which chiefly concerns us in this chapter, but their thought and spirit—which exercised so great an influence in determining the political principles embodied in the Constitution, upon which Japan to-day depends for the organisation of her representative system of government. I shall endeavour to approach this matter by investigating their political ideas and theories, and also those factors, either persons or things, which positively or negatively affected and modified the trend of their thought during the whole of the constitutional movement.

As has been said before, most Japanese publicists habitually assume that the grant of the Constitution was the direct and foreseen result of the "Charter Oath" of the Emperor at the Restoration. Of course, the masses of the people take it for granted that the Constitution was framed under the personal supervision of the Emperor, just as the American people take it for granted that the Constitution of the United States was framed by their forefathers imbued with the spirit of political equality and seeking to establish a government by the people, for the people, though facts will not bear this out.[1] It is generally assumed that the Emperor, with the almost superhuman intelligence traditionally attributed to him, had foreseen at the Restoration the necessity of establishing a constitutional *régime* at some future date, and consciously guided the government towards that end. It is true that several later Imperial Decrees, such as that announcing the establishment of the *Genro-in,* or Senate, in 1876, and of the *Fu-ken Kwai,* or Prefectural Assemblies, in 1878, and the granting of a Constitution in 1889, were referred to in the Oath, but this does not give any valid reason for believing that all these events were foreseen when the Oath was taken. Against this erroneous assumption I have already sufficiently argued in chapter II.

But it is well to bear in mind that in one respect the history of the development of representative institutions in Japan is very different from that in China, Russia, Persia, and Turkey, where the Emperor or Dowager-Empress, the Czar, the Sultan, and the Shah have often promised a Constitution one day and withdrawn it next. In Japan what the Sovereign promised was always strictly carried out to the letter.

The main course of the constitutional movement in Japan was never completely checked since its first appearance in practical politics in 1874, though from time to time some of the dangerous activities of the extremists were drastically suppressed. All leading statesmen in power were, with the exception of an insignificant minority, in favour of the introduction of representative institutions. Imperial Prince Arisugawa and Princes Sanjo and Iwakura, the only Court nobles who actually played an influential part in the administration of Meiji, approved the idea of constitutional government. It is a significant fact that they made no objection even to Okuma's scheme of establishing a National Assembly as early as 1883. Okubo, one of the greatest constructive statesmen of modern Japan, who had been the real leader of the administration from the Restoration until his unfortunate death in 1878,[1] was sometimes mistakenly believed to be an anti-Constitutionalist, because of his stern, uncompromising attitude towards Radical propagandism. But the fact that the establishment of the Assembly of Prefectural Governors (*Chiho Chiokwan Kwaigi*) in 1875 was chiefly due to his efforts indicates that he too favoured the introduction of representative institutions. Ito tells us that Okubo entertained the idea that the country should in the course of time adopt a representative system of government, but before its introduction proper preparation was necessary, for it was impossible for the people, whose habits, customs, and temperament had been moulded for centuries under feudalism, to adapt themselves at once to a form of government in which the sovereignty of the State was ultimately to be placed in their hands.[2]

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[1] *Vide* Smith J. Allen, *The Spirit of American Government,* chap. ii. p. 29.

Next to Okubo in the administration of the first decade of Meiji came Kido. Kido was the first statesman in Japan who really brought up the question of constitutional government as an issue in practical politics. In 1873, not long after he returned from his European journey, he addressed to his colleagues in the Cabinet a memorandum, in which he suggested the advisability of establishing a constitutional government.[3] Indeed, this was about a year before the question was eagerly taken up by Itagaki and his co-agitators.

After Okubo and Kido, Okuma was the leading figure in the government, but only for a very short time; and then came Ito, Inouye, Kuroda, Yamagata, &c. It is largely to their assiduous efforts and services that Japan owes her present system of representative government.

The first definite step taken by the government towards the adoption of representative institutions was the establishment of the Assembly of Prefectural Governors, which took place shortly after Itagaki's first agitation for constitutional government.[1] The first session of the Assembly was convened on June 20, 1875. Of course, it was by no means a representative body of the people, as it consisted only of Prefectural Governors, who were all officials; nor was it a legislative assembly, as its functions were simply to apprise the central government of the conditions of local affairs, to provide facilities for the exchange of views in matters of local administration, and to discuss the Bills submitted by the central authority, which was entirely free to adopt or ignore its decision.[2] Nevertheless it formed some sort of preparation for the adoption of representative institutions. In fact, Kido, who then acted as the President of the Assembly, submitted for its consideration the question of a popular legislative Assembly, though the majority maintained the view that the condition of the country was not such as to warrant so advanced a step.[3] It may be said that they, being officials, did not represent public opinion, but it cannot be denied that the Assembly was intended to be a preliminary to constitutional government, though it serves to-day as a means of extending the influence of the bureaucracy rather than of increasing the power of the people in local government.[4]

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[1] *Supra*, p. 85.

[2] Vide *Seitoshi*, pp. 26, 27.

[3] *Seitoshi*, pp. 22–25; *supra*, p. 69.

The same year in which the Assembly of Prefectural Governors was first summoned, the Senate (*Genro-in*) and the High Court of Justice (*Taishin-in*) were established with the idea of separating the administrative machinery into three distinct branches, *i.e.* executive, legislative, and judicial.[5] For, the leading political thinkers and statesmen of Japan, still under the influence of Montesquieu's theory of the "three co-ordinate branches of government," considered this division to be an essential part of good government. It was with the view of making the judiciary branch independent of the executive, such independence being then believed possible, that the High Court of Justice was instituted. The Senate was intended to be a deliberative legislative body, though it was denied the power of initiative. It consisted entirely of official nominees from the nobles and official class. Its function was to discuss and amend all laws and ordinances prior to their promulgation, and to give advice to the Minister of State in matters of legislation. Though it could not be said that this body was very efficient, as its power was so limited, nevertheless, it proved useful, suggestive, and instructive in matters concerning legislative assemblies, and remained in existence until the first convocation of the Diet in 1890.

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[1] Imperial Decree, May 2, 1874; Notification of the Dajokwan, No. 58, May 2, 1874.

[2] *Ibid.* The Constitution of the Assembly of Prefectural Governors, Arts. V. IX. X. XI.

[3] Lay, *History of the Rise of Political Parties in Japan*, p. 375.

[4] The Assembly of Prefectural Governors survived after the establishment of the Imperial Diet and still continues to exist to-day, but it has outgrown the object for which it had been established. It is now usually convened by the order of the Minister of the Interior when a new Ministry is formed, for the purpose of instructing the Prefectural Governors in the policy of the new administration. Through this body the bureaucratic statesmen in power are apt to exercise considerable influence over local politics.

[5] *Vide* Imperial Decree, April 14, 1875.

The next step towards a constitutional *régime* was the establishment of Prefectural Assemblies in 1878.[1] It was, indeed, the first attempt made by the government to introduce representative institutions, after the model of Western parliamentary systems, into Japan.

There were then forty-six Prefectures (*Fu* or *Ken*), in each of which a representative Assembly was established, elected by duly qualified voters. Every male subject (with the exception of the teachers of public schools, military men, idiots, lunatics, criminals, &c.) over twenty years of age, paying land tax of five *yen* (about ten shillings) per annum was qualified, while every male subject over twenty-five years of age paying ten *yen* per annum was eligible for membership of the Assembly of the Prefecture in which he resided.[2] The office tenure of representatives was four years, while one-half of the members were elected by open voting every two years. The Assembly was convened every year for a period of one month. Its chief function was the mere supervision of the fiscal policy of the Prefectural government; it determined the methods of levying local taxes and spending money, but its decisions were subject to the approval of the Governor, or, in some special cases, of the Minister of the Interior. It had no legislative power when it was first established, though in later years its power was extended.[1] Yet these prefectural assemblies, and the municipal, borough, town, and village councils, which were also established in the same year,[2] were really the most important training schools for the future Imperial Diet, and they served the object for which they had been instituted admirably.

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[1] Notification (Dajokwan Fukoku) No. 18, July 20, 1878. Later revised by Notification No. 15, April 18, 1880; by Notification No. 4, Feb.; and Notification No. 68, Dec. 1862. Still later the Constitution of Prefectural Assemblies was again revised and promulgated by Law No. 35, May 17, 1890. It stands now as finally revised by Law Nos. 64 and 65, March 1899.

[2] All land in Japan, whether improved or unimproved, cultivated or uncultivated, is taxed according to the land values estimated by the government.

Thus it may safely be concluded that the leading officials approved the idea of a representative system of government, and earnestly endeavoured to pave the way for its realisation. But what were the actual conditions under which the Constitution was framed and adopted? What were the dominant political ideas, ideals, and theories entertained by the framers of the Constitution?

In the preceding chapter it has been stated that there were diverse political views and theories advanced and propagated by the three leading political parties, viz. Liberals, Progressives, and Constitutional Imperialists, as to the sovereignty of the State, the prerogatives of the Crown, and the system of legislature. It has also been said that, though the Constitutional Imperialist Party was the weakest in numerical strength, being formed, as it was, by supporters of the government in opposition to the other two, its views were endorsed by the government officials.[3]

As to the conflicts among the various political elements of this period, Ito, the chief framer of the Constitution, says: "On the one hand there were the *elderly people* who still firmly believed in the Divine Right of the Emperor, and thought that any attempt to limit the prerogatives of the Crown was a crime rebellious in its character; on the other, there were many educated youths who had imbibed the extreme Liberal views of the Manchester School. There were also the politicians who, without understanding the difficulties of practical politics and the grave responsibilities of government, were simply hypnotised by the doctrines of Montesquieu and Rousseau, while the government officials favoured the political theories advanced by the German scholars (of whom Dr. Kato was the chief exponent).[1] Then Buckle's *History of Civilisation* was one of the most popular books among the political students in our country, as it denounced all political institutions as not only useless but harmful. The students in the Universities and High Schools vied with each other in reading it. But *these students had not the courage, when they got back home, to utter a single word about Buckle's political theories before their strict parents*." [2]

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[1] *Vide* Notification No. 31, June 1880.

[2] *Vide* Dajokwan Mugodatu, July 1878; revised by Fukoku, No. 18, April 1880.

[3] *Supra*, pp. 92, 93.

These were the conflicting forces which the framers of the Constitution had to encounter. Most of those whom Ito describes as the "elderly people" and "strict parents" took no active part in politics, and their influence was entirely passive, but their numerical or quantitative strength far exceeded all the others. It is impossible, of course, definitely to determine their numerical strength in comparison with that of those who actively participated in the constitutional movement. But we may safely say that numerically the former was immensely greater than the latter, from the fact that there were only 87,000 out of an adult male population of 9,000,000 who in 1880 directly or indirectly took part in the "United Association for the Establishment of a National Assembly."[3] Some among this silent passive population may have been adverse to the constitutional movement, some apathetic, and others acquiescent, but it is certain that all of them were on the side of the government. Hence they, though silent, must have been one of the greatest factors in relieving the minds of the government officials when pressed by the noisy, clamorous, militant agitators demanding the application of the abstract principles of Liberalism.

There were two other strong forces which served as bulwarks of peace and order; the *patria potestas* in the family, and the Imperial Throne in the body politic. Ito tells us that the young students, who had imbibed the radical principles of Liberalism in school, could not discuss these advanced political doctrines before their *strict parents* at home. Likewise the Liberal extremists, who boldly advocated the sovereignty of the people and the adoption of a single-chamber system of legislature, were quite silent about the Imperial Throne; they could not conscientiously utter a single word against monarchical institutions; nay, they exalted and deified the Emperor and the institution of the Imperial Throne, while bitterly and vehemently attacking the leading statesmen in the administration. This enabled the statesmen in power to fortify their actions by the authority of the Crown or government.

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[1] *Supra*, pp. 78, 79.

[2] *Vide* Prince Ito, *Kempo Seitei no Yurai*, *Kaikoku Gojiunen Shi*, vol. i. p. 135.

[3] *Supra*, p. 84.

Moreover, a strong reaction set in about 1882. The frequent occurrence of lawlessness, conspiracies, and insurrectionary activities instigated by the radical agitators caused much serious reflection on the theory of Liberalism.

Yet it is interesting to note that the government officials had at one time a difficulty in defending themselves against the powerful forensics of the theorists of liberty, equality, and natural rights, since their minds, too, were to some degree swayed by the *à priori* reasoning of Liberalism. They could defend authoritatively their use of repressive measures, but had no rational, intellectual justification to offer for it. Here, again, Dr. Kato appeared to defend them. His ingenuity enabled him to employ the Darwinian theory of natural selection for attacking the theory of "natural rights" and to defend that of absolutism. In 1882, the same year in which Rousseau's *Contrat Social* was translated by Mr. Nakai,[1] Dr. Kato published an essay entitled the *Jinken Shinsetsu* (New Theory of the Rights of Man), in which he says: "The world seems to be the battle-ground of a struggle for existence, in which those who are superior, mentally and physically through the biological reason of heredity, are bound to win in life's race and have control over the inferior, for the same phenomenon can be observed even more distinctly in the life of the lower animals and plants. This is an eternal law operative among all living things. The principle of the survival of the fittest has been continuously working from the barbaric ages of the prehistoric period to the civilised world of to-day, and will never cease as long as the earth is inhabited by living beings.[1] . . . Hence there exists no such thing as the natural rights of man. All the rights that any one has are his acquired rights,[2] and these acquired rights of the individual may be safely protected as long as the State exists in which he resides. . . . Thus it may be said that the rights of the people came into existence with the State, which must have been first organised by the strongest man who acquired absolute power over the rest. Unless there had been an absolute ruler our State would never have been organised, nor the rights of our people have come into existence. . . . It is to be observed that there are endless variations in the rights and social status of a people resulting from their biological variations."[3]

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[1] Mr. Nakai Tokusuke was one of the most noted writers in this period and a great exponent of the propagandists of eighteenth-century French political thought. He was a close associate of Count Itagaki.

This was the attack upon the theory of "natural rights" and a rational justification for the arbitrary rule of the officials. Many who were under the influence of the German political philosophy of the "State" supported Dr. Kato's view, and, identifying the Emperor with the State, advocated the sovereignty of the Monarch within a Constitution, in opposition to that of the people, and so took part in the reaction. Naturally the government officials sheltered themselves behind Dr. Kato's new theory. This is, I think, what Ito had in mind when he said that the government officials favoured the political theories advanced by the German scholars.

After Okuma left the Cabinet in 1881, Ito was the chief figure in the administration and held the most advanced views in official circles. For some time he had been more closely associated in political thought with Kido and Okuma than with Okubo, though he had been more closely connected in work with the last named, and was always more cautious and compromising than the other two statesmen. Prior to Okuma's plot in 1881,[4] Ito's political ideas seemed to have had much in common with those of Okuma. Then the English ideas of constitutional government had been predominant in his mind, as he had received his first Western education in England. But after the downfall of Okuma in 1881 a strong reaction set in within the government. With this change in the surrounding atmosphere, Ito grew conservative in his political ideas.

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[1] Chap. i. par. 18.

[2] Chap. i. par. 20.

[3] Chap. ii. par. 24.

[4] *Supra*, p. 86.

When he was appointed the head of the commission sent out to Europe for the purpose of investigating Western political institutions, with a view to drawing up a new Constitution, he visited Prussia, after passing through America, England, and Belgium, and there he made his longest stay, notwithstanding the criticism of the constitutional agitators at home against his sojourning in Germany and not in England. There he met and fell under the influence of one of the most striking personages in Europe in the nineteenth century—Prince Bismarck—to whose statesmanship the moulding of the German confederation is chiefly due, and whose policy of "blood and iron" checked the current started by the French Revolution. From that moment Ito became absorbed in studying the system of the Prussian government, the iron-handed policy of that eminent statesman, and the Prussian bureaucracy.

Shortly after his return he exerted all his influence and made every effort to introduce a bureaucracy into Japan after the Prussian type. He brought back certain class distinctions which had been swept away at the Restoration; he instituted the orders of nobility with such marked differentiations as had been unknown in Japan; ~~he~~ also remodelled the Cabinet system and concentrated all administrative power in the hands of the Minister President, after the German model under the Bismarckian *régime;* and he himself became the first Minister President under the new Cabinet system.

Furthermore, when the *Seido Torishirabe Kioku* (literally, Bureau for the Investigation of Constitutional Systems) was established in 1884 to carry out the work of drafting a Constitution, it was attached to the Imperial Household Department, which dealt with no affairs directly concerning the people, and which even to-day under the constitutional *régime* is an impenetrable part of the Japanese government. Why was this department specially selected for the task, instead of the Senate (*Genro-in*), which was then the legislative organ of the government, or the Department of Justice where all the other important civil and criminal codes were to be drawn up? The reason seems to have been to guard the work of framing the Constitution from any contact with public opinion. Kaneko, one of the prominent people concerned, tells us that, while the Constitution was framing, the people were intensely eager to know what Constitution they would be granted, for they doubted the constitutional ideas of Ito, knowing the influence of Bismarck, and therefore every possible precaution was taken to guard the work against popular interference and the invasion of public opinion.[1]

Ito was the head of the Bureau, while Marquis Tokudaiji (a prominent Court noble) was appointed Minister of the Department, so that he might indirectly participate in the work. The actual work of the Bureau was, however, largely entrusted to Inouye Ki, Kaneko Kentaro, Ito Miyoji, and their co-workers. Inouye had been one of the leaders of a political party known as the *Shimei Kwai*, which had been organised in Kiushiu Island, in opposition to the Liberals and Progressives, and the propaganda of which had been identical with that of the Constitutional Imperialists, who maintained the sovereignty of the Emperor, the absolute veto of the Sovereign over all legislations, and a two-chamber system. Inouye was a good classical scholar (Chinese) and learned in the ancient literature and history of Japan, while Kaneko had had a good Western education, and Ito (Miyoji) was considered a typical bureaucrat.

Thus the Constitution was drawn up in a reactionary atmosphere, with the utmost secrecy, in an impenetrable department of the Imperial government, free from popular agitation and any contact with public opinion. The draft was submitted for deliberation to the newly established Privy Council, of which Ito was the President. There were then present the male members of the Imperial Family, the Ministers of State, the special Councillors as well as the members of the Council, among whom were

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[1] *The Taiyo*, March 8, 1909, p. 85.

Prince Sanjo, Counts Katsu, Oki, Higashikuse, Torio, Yoshii, Soyejima, Kawamura, Sasaki, Terajima and Viscounts Enomoto, Shinagawa, Nomura, Sano, and Fukuoka. The Emperor was frequently present in person during the session of the Council. It is needless to comment upon the political atmosphere of such an assembly of nobles and dignitaries.

As to the deliberations of the Council, Ito says: "The Emperor gave every opportunity for revision and listened to the discussions, giving reasonable consideration to all the conflicting views of Liberalism and Conservatism; and as His Majesty had advanced ideas, we were able to get the present Constitution, notwithstanding the strong undercurrent of ultra-Conservatism in and out of the Council room."[1] It is true that the Constitution may be regarded as an embodiment of greatly advanced political principles, if looked at purely from the standpoint of our traditional political ideas and theories and the environment in which it was framed and adopted; but, on the other hand, it cannot be denied that the Constitution framed, as it was, by a few officials under the influence of reactionary ideas, and adopted by an assembly of aristocrats, exempt from all popular criticism and independent of public opinion, not only successfully defeated the extreme doctrines of Liberalism, but also lost sight of the true principle of representative institutions. Indeed, the Constitution is a document embodying Japanese traditional political principles under the cloak of representative institutions.

In the opening chapter of his *Commentaries on the Constitution,* Ito states: "The Sacred Throne of Japan is inherited from the Imperial Ancestors, and is to be bequeathed to posterity; in it resides the power to reign over and govern the State. That express provisions concerning the sovereign power are specially mentioned in the Articles of the Constitution in nowise implies that any newly settled opinion therein is set forth by the Constitution; on the contrary, the original national polity is by no means changed by it, but is more strongly confirmed than ever."[2] The framers of the Constitution were wise

[1] *Kempo Seitei-No-Yurai, Kaikoku Gojiunenshi,* vol i. p. 136.

[2] *Commentaries,* English ed., p. 2.

in carefully endeavouring to perpetuate the traditional sovereign power of the Imperial Throne, though it is hardly conceivable at present that the Japanese people will ever attempt to encroach upon this traditional theoretical prerogative; but it is questionable whether they were equally wise in rigidly checking every possible channel for the development of political power in the people.

PART II

SOME THEORETICAL ASPECTS OF THE CONSTITUTION

CHAPTER I

THE EMPEROR WITHIN THE CONSTITUTION

IN Part I. I have treated the political movements in Japan since the Restoration which led to the promulgation of the Constitution, and in Part II. I propose to investigate chiefly the theoretical aspects of the main provisions of the Constitution, such as those concerning the Emperor, the Cabinet, the Privy Council, the Imperial Diet, the electoral system, and the rights and liberties of the people.

It is well to bear in mind that the present Constitution is the first organic law in the history of Japan, framed in order to expressly define the power of the Emperor and prescribe the distribution of governmental powers among the different parts of the State. In Japan the theoretically absolute authority of the sovereign was never made the subject of political controversy and judicial interpretation as in England. From time immemorial it was imagined and generally accepted by the people of Japan that the sovereignty of the State is inherently vested in the Emperor, who is a lineal descendant of the only Imperial Family; and it was a matter of little importance to them whether the actual distribution of governmental power is or is not in conformity with this fundamental principle of sovereignty or traditional polity. A decree of the first Emperor, Jimmu (660 B.C.), says: "The country of Goodly Grain is a State over which our descendants shall become sovereigns."[1] Prince Shotoku's Constitution, which is dated at the beginning of the seventh century B.C., states that the government officials and the people are equally the subjects of the sovereign.[2] Even

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[1] Ito's *Commentaries*, p. 3. In ancient times Japan was known to her inhabitants as "Mizuho-no-Kuni," or Country of Goodly Grain.

[2] Chap. xii.

Shogun Tokugawa Iyeyasu, who established the hereditary Tokugawa government, which for more than two and a half centuries had absolute control over the administration of the Empire, while the Emperors were practically in a state of imprisonment in the Imperial Palace in Kyoto, proclaimed that the Shogun's duty was to protect the Emperor.[1] It is one of the most curious facts in Japanese history that for many centuries there has not been an Emperor who really personally exercised the administrative power of State or attempted to exercise it. Paradoxical as it may seem, this withdrawing of the sovereign from the actual administration strengthened, instead of weakened, the foundations of the traditional polity of Japan. Just as we see in England that the monarchical position was greatly strengthened by the absence of "personal rule" by Queen Victoria and King Edward VII. as compared with the reign of George III.,[2] so in Japan the absence for centuries of the "personal rule" of the sovereign was accompanied by the absence of any dispute over the theoretical power of the Emperor. Nay, it perpetuated in the minds of the Japanese people the belief that the sovereignty of the State is inherently vested in the Emperor, who is a lineal descendant of the only Imperial Family.

This doctrine of sovereignty is embodied in the major premises of the present Constitution of Japan. The logical severity and rigidity of its structure, perhaps, surpass that of the present Constitution of France, though the fundamental doctrines embodied in these two documents are as diametrically opposed to each other as the Poles. The main thesis of the Japanese Constitution is the sovereignty of the Emperor, whereas that of the French Constitution is the doctrine *vox populi vox dei.*

Article IV. of the Constitution of Japan states that "the Emperor is the head of the Empire, combining in

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[1] *The Legacy of Iyeyasu*, chap. xx. sec. 4.

[2] "The character of the Queen is a factor of the greatest importance, if the contention is sound that it was her *influence*, rather than her direct action, as sovereign which revived the interest of the British people in monarchical institutions, and in a certain degree remoulded the Constitution."—Lord Esher's Lecture on Queen Victoria's Journals, *The Times*, March 6, 1909.

Himself all powers of the State, and exercising them in accordance with the provisions of the present Constitution." Ito expounds this as follows: "The sovereign power of reigning over and of governing the State is inherited by the Emperor from His Ancestors, and by Him bequeathed to His posterity. All the different legislative as well as executive powers of State, by means of which He reigns over the country and governs the people, are united in this Most Exalted Personage, who thus holds in His hands, as it were, all the ramifying threads of the political life of the country, just as the brain in the human body is the primitive source of all mental activity manifested through the four limbs and the different parts of the body."[1]

In addition, the Constitution attributes to the Emperor sacredness and inviolability.[2] Ito maintains that the Emperor's person should not be subjected to irreverent discussion nor derogatory comment.[3] Thus the Emperor is absolutely beyond any criticisms and comments, and he "can do no wrong." This is a strong affirmation of the traditional theory of absolutism of the Emperor.

As to the innovations made by the Constitution. The most important are the establishment of the National Assembly—Imperial Diet—the prescription of the distribution of all governmental power among the different branches of the administration, the formulation of the manner in which this distributed power is to be exercised, and the definition and enumeration of the rights and obligations of Japanese subjects.

In this chapter I shall endeavour to investigate chiefly how the legislative, judicial, and executive powers are distributed within the Constitution, and how each is related to the Emperor. First, I shall begin with the legislative power.

With regard to the distribution of power, Ito in his *Commentaries* maintains: "The combination of all the governmental powers of the State in one person is the essential characteristic of sovereignty, and the carrying of those powers into effect in accordance with the provisions of the Constitution denotes the exercise of sovereignty. When the essential characteristic of sovereignty exists without its exercise in the manner just stated, the tendency will be towards despotism. When, on the other hand, there is such exercise of sovereignty without its essential characteristic, the tendency will be towards irregularities and supineness."[1] That is to say, that the exercise of all governmental powers of State by a monarch without a Constitution, such as that of Japan, or, in other words, as I think Ito means, without a representative legislature, tends towards despotism—despotism, Ito implies, is an undesirable form of government—but, on the other hand, the exercise of the same governmental powers by a representative body of the people without a monarch tends to produce irregularities and supineness. This is a very ambiguous and somewhat absurd statement, yet it is cleverly constructed to suit its author's purpose.

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[1] *Commentaries*, English ed., p. 7.

[2] Art. III.

[3] *Commentaries*, p. 6.

Ito's *Commentaries* were published to explain and enforce the intent and meaning of every provision of the Constitution as understood by its framers, and at the same time to produce reasons to justify their drawing up such a Constitution.[2] The statement cited above is a justification for the preservation of the traditional absolutism of the sovereign as well as for the new distribution of power formulated in the Constitution.

Article V. of the Constitution provides that "the Emperor exercises the legislative power with the consent of the Imperial Diet." The word "consent" implies a purely passive action. Its effect is only negative, therefore its force largely depends upon the strength of the active party; that is to say, if the active party is very powerful, it can compel the passive party to give consent, or the refusal of consent by the passive party would not in any case greatly hinder the active party.

It is just the same with the Emperor and Imperial Diet. In the absence of the Diet the Emperor can issue an

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[1] *Commentaries*, pp. 7, 8.

[2] The influence of Ito's *Commentaries* upon the development of the Japanese Constitution may well be compared with that of Hamilton's *Federalist* upon that of the Constitution of the United States.

Imperial ordinance in lieu of a law.[1] It is true that the Constitution provides that such an Imperial ordinance is only to be issued in matters of urgent necessity, to maintain public safety or to avert public calamities, and that it shall be laid before the Diet at its next session, and when the Diet does not approve the said ordinance, it shall be declared invalid for the future.[2] But the phrase, "in matters of urgent necessity to maintain public safety," is very elastic, and can be applied to almost any case, as all good laws are intended to maintain public safety and promote the welfare of the people. Besides, the negative power of the Diet cannot be easily exercised, for the Emperor is able, if he will, through the Ministry, to arrange the business of the Diet in such a way that it would have no time to discuss any ordinance issued during its absence.[3] The Emperor, through the Ministry, can interfere with the orders of the day in the Diet; he can bring in a Bill at any time, or withdraw or amend a Bill already brought in, at any stage of the discussion.[4] Nor is that all. A session of the Diet is limited to a period of three months in the year,[5] and it is not impossible for him to shorten the already short period allotted to the transaction of the many complicated matters of legislation by suspension or prorogation. It is a prerogative of the Emperor to convoke, prorogue, close, or dissolve the Diet at will.[6]

Moreover, the Constitution provides that the Emperor can issue ordinances necessary for the maintenance of public peace and order, and for the promotion of the welfare of the subjects.[7] Ito explains that these ordinances are meant to be administrative, and says: "All these matters (ordinances) may, without being passed through the regular legislation, form the subjects of legal enactments, having a binding effect upon the people at large, by virtue of the executive power of the Emperor. As to a binding effect upon the people, there should not be the slightest difference between a law and an ordinance, save that a law can make alterations in any of the existing ordinances, whereas no ordinance can alter any of the existing laws."[1] Whether an ordinance is called administrative or imperial, or whether it is issued by virtue of the executive or legislative power of the sovereign, the issuing of an ordinance is legislation pure and simple. As Ito maintains, in the case of a conflict between law and ordinance, the law predominates; but in the absence of conflict, an ordinance has the force of a law. Besides, the power of issuing "administrative ordinances" is almost unlimited, as the phrase "ordinances necessary for the maintenance of the public peace and order and for the promotion of the welfare of the subjects" covers the entire gamut of important legislation.

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[1] Art. VIII. sec. 1.

[2] Art. VIII. secs. 1, 2.

[3] Law of the Houses, Art. XXVI. sec. 2.

[4] *Ibid.*, Art. XXX.

[5] Art. LXII.

[6] Art. VII.

[7] Art. IX.

But these legislative powers of the Crown are mostly those which may be exercised independently of the Diet. With the consent of the Diet the Emperor makes all laws. But in a case of conflict, how far can the Emperor limit the power of the Diet?

Every Bill passed by the Diet requires, before it becomes law, to be sanctioned and promulgated by the Emperor;[2] no Bill, even if it passed the Diet unanimously, could have the force of law without being sanctioned and promulgated by the Emperor. The sanction of the Sovereign to a Bill is the final point in Japanese legislation. The Emperor is absolutely free either to give or to refuse sanction. Therefore, you may say that the Emperor has an absolute veto over all legislation. There is no constitutional way for the Diet to over-ride this veto of the Emperor.

With regard to those Bills which have passed the Diet and received its sanction, the Emperor can issue administrative ordinances, if necessary, to regulate the details of their execution.[3] Of course, an administrative ordinance of this kind cannot be made to alter the main principles involved in the measure, for which it is issued, but it can considerably alter their effective force by detailed regulations, if so desired. All this shows how the power of the Diet can be limited by the Emperor, or Minister of State, who acts in the name of the sovereign, within the Constitution.

Now I come to the executive power. The Emperor has power to determine the organisation of the different branches of the administration, to appoint and dismiss all civil and military officers, and to fix their salaries as well as their pensions;[1] that is to say, the Emperor has absolute and complete control over the entire executive branch of government.

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[1] *Commentaries*, p. 13.

[2] Art. VI.

[3] Art. IX.

This indicates a complete separation between the executive and the legislature. Theoretically speaking, the Diet has no control whatever over the executive branch of the government. It seems that the constitutional framers of Japan were still under the delusion of the old theory that the goodness of a Constitution consists in the entire separation of the executive and legislative branches of the government. In fact, Ito supported the principle, saying, "The practice of England is, that excepting certain special classes of officials, the sovereign still possesses, as he possessed formerly, the prerogative of appointing or of dismissing any civil or military official at his pleasure."[2] Ito failed to understand the real English Constitution, apart from its literal theory. A contemporary English publicist, Bagehot, wrote in 1867: "The efficient secret of the English Constitution may be described as the close union, the nearly complete fusion, of the executive and legislative powers; . . . . and the connecting link is *the Cabinet.*"[3]

Consequently, the constitutional framers made no link between the executive and legislative branches of government, save that both are combined in one and the same sovereign. The executive, or administrative officers appointed by the Emperor, can without great difficulty exercise either legislative or executive power independently of the Diet in the name of the sovereign. But the work of the legislature—the Diet—representing the people, is entirely confined within its own walls. The Diet can initiate, amend, pass, or reject any project of law;[4] but it has no control over any measure once passed, even if the Bill is killed or mutilated by ordinances issued by the administrative or executive officers appointed by the sovereign.

Again, the Emperor as the chief executive has supreme command of the army and navy, and determines their organisation and even the number of men to be recruited each year.[1] Ito maintains that this power of organising the army and navy is to be exercised with the advice of the Ministers of State.[2] But Ministers are appointed by the sovereign and are not responsible to the Diet. Hence, the people have no voice in this great matter of the army and navy, which concerns the problem of the life and death of the whole nation.

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[1] Art. X.

[2] *Commentaries*, pp. 23, 24.

[3] *English Constitution*, Amer. ed., pp. 78, 79.

[4] Art. XXXVIII.

The Emperor alone possesses the power of declaring war, of making peace, proclaiming the law of siege, and concluding treaties.[3] In time of peace the effect of certain treaties upon the life and property of the people is no less conspicuous than that of important legislation. Yet the Diet has no right to either participate or be consulted in treaty-making.

Again, it is the prerogative of the Emperor "to confer titles of nobility, rank, orders, and other marks of honour, and to grant amnesty, pardon, and commutation of punishments and rehabilitation." [4]

Now I come to the judicial power. Ito says that the sovereign is the fountain of justice, and all judicial authorities are a form of the manifestation of the sovereign power.[5]

However, Article LVII. of the Constitution provides that "the judicature shall be exercised by the Courts of Law according to law in the name of the Emperor," and "the organisation of the Courts of Law shall be determined by law"; and "the judges shall be appointed from amongst those who possess proper qualifications according to law." [6] Laws are made by the Diet, with the sanction and promulgation of the sovereign. Hence it may be said that the judiciary is more dependent upon the legislative than the executive branch of government. Usually the executive jealously desires to control the judiciary. In the early period of constitutional history in England, the judiciary was completely subordinated to the executive. Under the Norman kings the *Concilium Ordinarium* kept the executive and judicial powers intact, while the *Magnum Concilium* was given legislative and financial powers; under the

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[1] Art. XII., Ito's *Commentaries*, p. 26.

[2] *Ibid.*

[3] Arts. XIII. XIV.

[4] Arts. XV. XVI.

[5] *Commentaries*, p. 101.

[6] Art. LVIII., sec. 1.

Tudors and the early Stuarts the Star Chamber exercised certain judicial power. It seems curious that while the Constitution of Japan narrowly limits the power of the legislative branch—the Diet—and leaves that of the executive almost unlimited, it subordinates the judiciary more to the legislative than to the executive. It is interesting to note that this peculiarity is due to the belief in a certain discarded political doctrine by the framers of the Constitution.

The framers of the Japanese Constitution believed the doctrine that the independence of the judiciary is one requisite of good government, as did the framers of the Constitution of the United States in the eighteenth century.[1] Thus, while they endeavoured to completely subordinate every branch of government to the Emperor, they intended to make the judiciary independent. Ito gives us the reason, and says, "Though it is in the power of the sovereign to appoint judges, and though the courts of law have to pronounce judgment in the name of the sovereign, yet the sovereign does not take it upon himself to conduct trials, but causes *independent* courts to do so, in accordance to law and *regardless* of the influence of the administrative. Such is what is meant by the independence of the judicature."[2] It is for us a matter of conjecture whether or not the framers of the Constitution could clearly perceive the fact that, in making the organisation of courts and judges dependent upon law, they ultimately subordinated the judiciary to the legislature.

But the Japanese Court of Law is not like the Supreme, or the District Court of the United States. The latter has power to pronounce judgment upon a dispute between an individual citizen and the administrative authority, and even power to declare an Act of Congress null and void on the ground of unconstitutionality. But the power of the former is limited only to the adjudication of lawsuits, in which both disputants are individual subjects. It has no power to interpret the Constitution—that power is left in the hands of the Emperor[3]—nor to adjudicate a suit, in which the administrative authority is a party. Article LXI. of the Constitution provides that "no suit at law, which relates to rights alleged to have been infringed by the illegal measures of the administrative authorities, and which shall come within the competency of the Court of Administrative Litigation specially established by law, shall be taken cognisance of by a Court of Law." Thus one of the most important judicial functions, *i.e.* the protection of the rights and liberties of the people from the arbitrary rule of permanent officials, is left to the Court of Administrative Litigation, which is, though first established by law, as are the ordinary Courts of Law, *de facto* entirely dependent upon the executive branch of the government.[1] The framers of the Constitution saw, while thinking of establishing an independent judiciary, that if this important judicial power be vested in the Courts of Law, the executive may be subordinated to the judiciary. "Were administrative measures," says Ito, "placed under the control of the judicature, and were courts of justice charged with the duty of deciding whether a particular administrative measure was or was not proper, administrative authorities would be in a state of subordination to judicial functionaries. The consequence would be that the administrative would be deprived of freedom of action."[2] Hence the Court of Administrative Litigation was instituted to subordinate this important function of the judiciary to the executive. The result was that there is nothing in the Constitution to safeguard the rights and liberties of the people from the encroachment of the permanent executive officials.

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[1] Vide *The Federalist*, No. 78.

[2] *Commentaries*, p. 104.

[3] In 1892 the House of Peers re-inserted in the Budget certain items curtailed by the Lower House, which maintained that the Upper House had no power to revise any amendment of the Lower House on a financial measure. An appeal by the House of Peers to the Emperor to pronounce the intended meaning of

So far I have discussed the legislative, the executive, the judicial power and their localisation within the Constitution. Now I shall deal with a peculiar power which is partially vested in the Diet and partially in the Throne, and which, though within the Constitution, yet extends without. That is the amending power.

Art. LXV. of the Constitution, resulted in the Emperor, with the advice of the Privy Council, declaring that the two Houses are co-equal in power in all matters of egislature.

[1] The Administrative Court, Law No. 48, 28th June 1890, Art. LXXVI.; *infra*, p. 141.

[2] *Commentaries*, p. 109.

Most publicists in our country, as has been said before, categorically assume that the Constitution was granted by the Emperor, and consequently pay very little attention to its amendment clause. The constitutional framers themselves seem to have considered it less important. In fact, they inserted it in the Supplementary Rule of the Constitution. Nevertheless, it is one of the fundamental parts of a Constitution. With regard to the amendment clause of a Constitution, Professor Burgess says, "Upon its existence and truthfulness, *i.e.* its correspondence with its real and natural conditions, depends the question as to whether the State shall develop with peaceful continuity or shall suffer alternations of stagnation, retrogression, and revolution."[1] Professor Dicey states: "If the inflexibility of constitutional laws has in certain instances checked the gradual and unconscious process of innovation by which the foundations of a commonwealth are undermined, the rigidity of constitutional forms has in other cases provoked revolution. The twelve unchangeable constitutions of France have each lasted on an average for less than ten years, and have frequently perished by violence. Louis Philippe's monarchy was destroyed within seven years of the time when Tocqueville pointed out that no power existed legally capable of altering the Articles of the Charter. In one notorious instance at least—and other examples of the same phenomena might be produced from the annals of revolutionary France—the immutability of the Constitution was the ground or excuse for its violent subversion."[2]

The unwritten Constitution of England, a "slowly formed and uncertain deposit at the bottom of a dull and cloudy liquid,"[3] is often subjected to criticism on account of its confusion of the statutory and constitutional laws. But the long continuous and steady development of political history in England, to which Hallam paid a high tribute, saying, "No unbiassed observer who derives pleasure from the welfare of his species, can fail to consider the long and uninterrupted increasing prosperity of England as the most beautiful phenomenon in the history of mankind," is largely due to the elasticity of the English Constitution. Bagehot calls this elastic feature of the English Constitution the "safety-valve" and says, "It lets forth a dangerous accumulation of inhibited power which might sweep this Constitution before it as like accumulations have often swept away like Constitutions."[1]

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[1] *Political Science and Constitutional Law*, vol. i. Book I. p. 138.

[2] Dicey, *Law of the Constitution*, 6th ed., chap. ii. p. 125.

[3] Boutmy, *Studies in Constitutional Law*, p 50.

One of the chief reasons why the Constitution set up by the Articles of the Confederation of 1777 in the United States was completely thrown out, was that it lacked practical amending power, or had no efficient "safety-valve," though the object of making amendment difficult was to prevent the central government from encroaching on the rights of the several States.[2] The lack of an efficient "safety-valve" in a Constitution causes, unless the community is stationary, a "dangerous accumulation of inhibited powers," which is likely to result either in the overthrow of the Constitution or in the stagnation of society.

Article LXXIII. of the Constitution of Japan provides that "when it has become necessary in future to amend the provision of the present Constitution, a project to that effect shall be submitted to the Imperial Diet by Imperial Order. In this case, neither House can open the debate, unless not less than two-thirds of the whole number of members are present, and no amendment can be passed unless a majority of not less than two-thirds of the members present is obtained." Hence the people, or the Diet, it is implied, have no initiative for amending the Constitution. A project for amendment must come from above. It is not, however, very clear whether Imperial Order signifies the direct command of the Emperor, or the mandate of the Minister of State with the sanction of the Emperor, though it does not make any material difference, as the Minister is appointed by the Emperor and is directly responsible to him. The framers of the Constitution seem to have meant by it the direct command of the Emperor, as Ito writes in his *Commentaries*,

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[1] *English Constitution*, Amer. ed., p. 298.

[2] Articles of Confederation, 1777, Art. XIII.; Smith, *The Spirit of American Government*, chap. iv. p. 58.

"the right of making amendments to the Constitution must belong to the Emperor Himself, as He is the sole author of it."[1] So must amendment to the Constitution first emanate from the will of the Emperor. The people must wait until the sovereign desires to amend the Constitution. It may be said that as the Constitution was granted by the Emperor when the nation needed it, so amendment will be without delay and difficulty proposed by the Emperor when the people desire it. This assumes, however, that Japan will be always fortunate enough to have a wise sovereign.

Another difficulty in obtaining amendment is that the Emperor is not the sole power in this case as he was in granting the Constitution. If he were, the process of amending the Constitution would be more direct and simpler, though less democratic, and perhaps easier in practice than is actually the case. According to the amendment clause of the Constitution, a draft of the amendment must be submitted to the Diet and discussed in the House, in which are present not less than two-thirds of the entire members, and passed by a majority of not less than two-thirds of the members present. It is needless to say how difficult it is to get a majority of two-thirds in any large assembly under ordinary circumstances. Hence you may say that the Constitution of Japan has no efficient "safety-valve."

There is one more point to which I call your attention before leaving this chapter. It is that concerning the succession to the Throne and the instituting of a Regency.

We are told that in England the people can constitutionally depose a King for misgovernment, give the Crown to another, and determine the course of succession, and that any person who is received into the Church of Rome is disqualified by the Act of Settlement of 1700 from inheriting the Crown.[2] But in Japan the people have no right to interfere with these matters. Succession to the Imperial Throne is determined according to the Imperial House Law by the Imperial Family Council with the advice of the Privy Council.[3] "The Imperial House Law," says Ito, "is one that has been settled by the Imperial Family concerning their own affairs, and bears no relation to the reciprocal rights and duties of the Emperor or of His subjects towards each other."[1] But by the Constitution, all power of State is ultimately vested in the Emperor who sits on the Imperial Throne. Therefore it cannot be said that the succession to the Throne does not concern the people or bear any relation to their rights and duties. Nay, it is of vital importance to the political life of the people.

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[1] *Commentaries*, p. 140.

[2] Anson, *Law and Custom of the Constitution*, vol. ii. 3rd ed., pp. 232, 233.

[3] Imperial House Law, chap. i.

The creation of a Regency in the case of necessity is also determined by the Imperial House Law.[2] The Regent can exercise all powers appertaining to the Emperor.[3] Yet the people have no voice in the selecting of a Regent; this is decided exclusively by the Imperial Family with the advice of the Privy Council.[4]

But in practical politics the people of Japan do not really consider these matters very important, for it is a long-established custom in our country that the Emperor rules the people not by power but by influence, of which I shall say more in Part III.

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[1] *Commentaries*, p. 141.

[2] Art. XVII., sec. 1.

[3] *Ibid.*, sec. 2.

[4] Imperial House Law, chap. v. Art. XIX,

CHAPTER II

THE CABINET AND THE PRIVY COUNCIL

THE word "Cabinet" is not expressed anywhere in the Constitution proper; Ito's *Commentaries* mention it only in a few places.[1] In the Constitution it is explicitly stated that each Minister of State shall individually give his advice to the Emperor and be individually responsible for it.[2] Therefore, as far as the letter of the Constitution proper is concerned, there exists no collective body of Ministers of State such as a Cabinet. But, as a matter of fact, there is in our present constitutional system a Cabinet called *Naikaku* by the Japanese, a collective body of all Departmental Ministers under the presidency of a Minister President (*Naikaku Soridaijin*), like the Council of Ministers in Belgium, which initiates, determines, and carries out the general schemes and policies of the government. It is true that this collective body of Ministers of State, known as the *Naikaku*, has no such joint responsibility as the Cabinet of England, that is to say, each Minister is not responsible for the action of the Cabinet (*Naikaku*) as a whole, and the Cabinet as a whole is not responsible for the action of each Minister,[3] but each Minister, while remaining in office, cannot act independently of the others. For the policy of his department he must obtain the approval of the Cabinet, or at least of the Minister President, and he must abide by every decision of the Cabinet and act in accordance with the mandate of the Minister President, though he is only responsible for the action of his department and not for that of the Cabinet as a whole, whereas the Minister President is responsible for the action of each department as well as for that of the Cabinet as a whole.

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[1] *Commentaries*, pp. 84, 85, 90, 94, 95.

[2] Art. LV. sec. 1.

[3] *Cf.* Blauvelt, *The Development of Cabinet Government in England*, p. 3.

The present Cabinet system owes its existence to an Imperial Rescript of December 1885 and to several subsequent ordinances,[1] which are still in force by virtue of Article LXXVI. of the Constitution providing that "existing legal enactments, such as laws, regulations, ordinances, or by whatever names they may be called, shall, so far as they do not conflict with the present Constitution, continue in force." Hence the Cabinet has its *de jure* existence within the Constitution, though the existence of a collective body of Ministers as such is not recognised in the Constitution proper.

The object of instituting a Cabinet system in 1885 was to concentrate the administrative power in the hands of the Minister President, and make him responsible for the general policy of the government, by subordinating all Departmental Ministers to him and making them only responsible for their respective departments, and at the same time to make the administrative machinery adaptable to the Constitution under contemplation.[2] In fact, this system has not undergone any substantial change since the establishment of the constitutional *régime*. The framers of the Constitution, erroneously thinking that the joint activities of the Ministers might encroach upon the power of the Emperor, made all Ministers individually responsible to him; but they allowed the Cabinet system to exist, as they could not conceive any possibility of securing harmony in the policy and action of the government, if each Minister acted independently of his colleagues. Ito curiously remarks: "In some countries the Cabinet is regarded as constituting a corporate body; the Ministers are not held to take part in the conduct of the government each one in an individual capacity, but joint responsibility is the rule. The evil of such a system is that the power of party combination will ultimately overrule the supreme power of the sovereign.[1] Such a state of things can never be approved of according to our Constitution. But with regard to important internal and external matters of State, the whole government is concerned, and no single department can therefore be exclusively charged with the conduct of them. As to the expediency of such matters and as to the mode of carrying them out, all the Ministers of State shall take united counsel, and none of them is allowed to leave his share of the business to be a burden upon his colleagues. In such matters it would, of course, be proper for the Cabinet to assume joint responsibility." [2]

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[1] Imp. Ord. (Naikaku Kwansei), Nos. 1, 2, February 1886; No. 140, December 1889.

[2] Prince Sanjo's Memorial to the Emperor, December 1885: "The Organisation of the Respective Departments," *The Nichinichi Shimbun.* (Translation s given in the *Japan Weekly Mail*, 3rd April 1886.)

So, the nine Departmental Ministers, under the guidance of the Minister President, meet to discuss and take the initiative in all important matters of State and to advise the Emperor,[3] and this collective body of all the Ministers is called the Cabinet. Each Departmental Minister is appointed nominally by the Emperor, usually on the advice of the Minister President; and the Minister President, as a rule, on the advice of the out-going Premier, and seldom of the Privy Council. The sovereign may choose any one as a Minister of State, but he has never done so.

Sir William Anson tells us that the Cabinet Ministers in England are "His Majesty's Servants," and the Cabinet is a deliberative body, which meets to consider and determine how the King's government may be carried on in all the important departments and to advise and take the initiative in all matters of State; and that its members are the heads of executive departments, and the leaders of the party whose policy is approved by the electorate.[4] Precisely the same words, substituting Emperor for King, with the exception of the last clause—that Cabinet Ministers are the leaders of the political party whose policy is approved by the electorate—can be used in describing the Japanese Cabinet, but with different connotations and implications; for, this last clause gives all the other words a different context and content. Here lies the fundamental difference between the English and Japanese Constitutions.

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[1] Ito might have thought that the joint responsibility of Ministers implies a system of party government and a Ministry responsible to Parliament, while his intention was to make all Ministers solely responsible to the sovereign and not to the Diet.

[2] *Commentaries*, pp. 94, 95.

[3] There are ten Departmental Ministers, including the Minister of the Imperial Household Department. But the latter is not regarded as a Minister of State. Vide *Shimizu*, *Kempohen*, p. 219.

[4] *Law and Custom of the Constitution*, 3rd ed., vol. ii. p. 98.

The Cabinet Ministers in Japan are independent of any political party or parties, and, therefore, of the electorate. Hence, when the Japanese Constitution states what the Emperor does, it has a positive meaning, considered from the standpoint of the people, and is not so euphemistic as the literal English Constitution. But let it not be understood from this that the sovereign of Japan exercises personally all powers vested in him. Far from it. Constitutionally the Cabinet interposes between the Emperor and the Diet, or people; and it is the channel and medium through which the sovereign exercises his power.[1]

The Emperor of Japan very seldom comes into contact with the people. Even the inhabitants of Tokyo, the capital of the Empire, seldom have the opportunity of seeing the Emperor, even at a distance, during a lifelong residence there. The great majority of the people are still very anxious to preserve the dignity of the sovereign, and do not wish his frequent appearance in public.[2] Public opinion only reaches him indirectly through the medium of the Minister President or of the Imperial Household Department, after passing successive stages of filtration. This being the case, it is wise for the sovereign to act strictly on the advice of the Cabinet and give unqualified sanction to all decisions of the Cabinet in matters of State. Thus the policy of the Cabinet becomes the policy of the Emperor, and with the approval of the Diet, when that is required, it becomes the policy of the State. In fact, the Cabinet exercises, in the name of the Emperor, all powers, executive, legislative, and judicial, which are vested in the Crown by the Constitution.

The issuing of administrative and emergency ordinances, the making of treaties with foreign nations, the declaring of peace and war, the commanding of the army and navy, and the determining of their organisation, the appointing and dismissing of public officials, and the fixing of their salaries and pensions, &c.,[1] all of which, falling within the executive function of government under the Constitution, are virtually controlled by the Cabinet in the name of the Emperor.

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[1] *Commentaries*, pp. 84, 85.

[2] In the autumn of 1907, while my friends and I were waiting in the midst of a dense crowd in front of the Guildhall to see the Emperor of Germany, one of the professors of the Higher Commercial School in Tokyo said that he did not approve of letting the masses of the people look so closely at the crowned head of a nation as on this occasion, for it might tend to lessen the dignity of the Crown.

As to the judicial branch of government, the control of the Cabinet is not so complete as over the executive, yet it is very thorough. Over the Courts of Law the control of the Cabinet is limited, as their organisation is determined by law, and all the judges and public procurators hold office on a life tenure. But over the Court of Administrative Litigation the Cabinet has almost sole control. Its organisation is determined by Imperial ordinance, and the President as well as all Councillors of the Court are appointed by the Minister President.[2] The power vested in the Court is very important and its scope is extensive, as the Court adjudicates in all cases relating to the assessment of taxes, with the exception of custom duties, the punishment of defaulting taxpayers; the prohibition of withdrawal of permission to engage in business; water rights and works (matters mostly concerning irrigation); and disputes between the State and individual concerning the ownership of land.[3]

All these judicial and executive powers which the Cabinet exercises in the name of the Emperor are exercised independently of the Diet. Now let us examine the relation between the Cabinet and the Diet in the matter of legislation.

By the Constitution the Cabinet, or Ministry, can introduce any Bill in the Diet[4]; and it can also amend or withdraw at any time any Bill which it has already brought in.[5] Bills brought in by the Ministry have precedence in the orders of the day over those originated in the Diet.[6] Moreover, a Bill passed through the Diet requires the sanction of the Emperor before it becomes law, though that sanction has never, since the establishment of the Diet, been refused. The Emperor performs this duty on the advice of the Cabinet; and, besides, every law before its promulgation requires to bear the counter-signature of the Minister President with His Majesty's sign manual.[1]

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[1] *Naikaku Kwansei*, February 1886.

[2] Law (the Administrative Court), No. 48, 28th June 1890, Arts. II. III.

[3] Law (the Administrative Suits), No. 6, 9th October 1890.

[4] The terms Ministry and government are sometimes used synonymously with Cabinet, when the relation between the Cabinet and the Diet is discussed.

[5] Law of the Houses, Art. XXX.

[6] Law of the Houses, Art. XXVI.

Moreover, the Constitution provides that the Ministers of State and the Delegates of the Government may at any time take seats and speak in either House.[2] Ito expounds this clause as follows: "The right of the Ministers of State to be present in the House and to speak therein is left to the option of the government. The Ministers of State, therefore, may in person take part in debates, and make explanations, or they may instruct delegates of the government so to do; they may, too, when they think it necessary, decline at pleasure to do either the one or the other, either in person or by delegation."[3] The right of the Ministers of State to take part in debates in either House of the Diet may be effectively used in two ways: to directly influence opinion, or to delay debates by "talking-out"; and the right to refuse to give explanation or information may be used with great advantage to the government, for some questions can be answered and explained only by government officials. It is not unusual for a member of the Cabinet to abuse this right, and to refuse to furnish important information which may be invaluable to the legislators.

Again, the Ministers of State or their delegates have free access to every Committee-Room.[4] There they can exercise their influence more effectively than on the floor of the Houses, for the members of a Committee are considerably fewer; and, as a matter of fact, there is a strong tendency for important Bills introduced by the government to be practically settled in the Committee-Room and forced through the Houses by the use of the guillotine. The Cabinet Ministers are invariably in favour of shortening both discussion and criticism of government Bills.

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[1] Imp. Ord. (Kobunshiki), No. 1, 1886, Art. III.

[2] Art. LIV.

[3] *Commentaries*, p. 83.

[4] Law of the Houses, Art. XLIII.

And, again, debates in the Diet may be held in secrecy on the demand of the government or by resolution of the House.[1] Ito enumerates certain affairs which require, on certain occasions, secrecy of deliberation, such as foreign affairs, personal matters, elections of Diet officers and of committees, financial matters, military affairs, and administrative regulations relating to peace and order.[2] This means almost all important affairs of State.

The government can also at any time order the prorogation of either House for a period of less than fifteen days.[3] The power of prorogation is a very effective means of interfering with legislation in the Japanese Diet, whose annual session is limited to three months by the Constitution.[4] Besides, the prerogative of the Emperor to convoke and close the Diet and to dissolve the House of Representatives is exercised on the advice of the Cabinet.

These are the important powers the Cabinet Ministers can use to interfere with legislation in the Diet. Now let us see what powers the Diet has to interfere with the executive. First in importance is its power over the financial measures of the State.

Article LXIV. of the Constitution provides that "the expenditure and revenue of the State require the consent of the Imperial Diet by means of an annual Budget." The Constitution does not state whether the Diet has the power to increase as well as decrease the amount of expenditure and revenue estimated in a Budget. Some Japanese constitutional writers maintain that the Diet has both, while others argue in opposition, saying that as the Diet has no power of drafting a Budget, it is evident by implication that the Diet has no power to increase the appropriations estimated by the government.[5] Legally the question is still unsettled. But the power to increase is not *ipso facto* so important as the power to decrease, which has in fact always been exercised since the first session of the Diet. Now the question is: What is the extent of this power of the Diet?

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[1] The Constitution, Art. XLVIII.

[2] *Commentaries*, p. 78.

[3] Law of the Houses, Art. XXXIII.

[4] The Constitution, Art. XLII.

[5] Shimizu, *Kempohen*, p. 480.

As to the revenue of the State, the Diet is vested with power to control the imposition of a new tax and the modification of the rate of any existing one, the raising of national loans, and the contracting of other liabilities to the charge of the national treasury; but the Diet has no power to control all the so-called administrative fees or other revenue having the nature of compensation, such as, for instance, railway fares, warehouse charges, school fees, and the like, which are fixed by administrative ordinances.[1] In 1892 there was an interesting controversy between the government and the Diet over the question of an administrative fee. The government revised the Hunting Regulation by issuing an ordinance, and imposed a new licence fee;[2] but the ordinance was disapproved by the Diet on the ground that the licence fee was a tax, though the government contended it was an administrative fee of the nature of a compensation. The result was the invalidation of the ordinance. Thus certain administrative fees originated by an ordinance may be ultimately brought under the control of the Diet. But the fact that the administrative fees and some other revenue, which, having the nature of compensation, escape the direct control of the Diet, amounts to about a third of the total ordinary revenue, shows that the power of the Diet to control the national revenue is considerably limited.[3]

An analytical examination also reveals the fact that the power of the Diet to control the national expenditure is likewise limited. Article LXVII. of the Constitution provides that "the already fixed expenditures based by the Constitution upon the powers appertaining to the Emperor, and such expenditures as may have arisen by the effect of law, or that appertain to the legal obligations of the government, shall be neither rejected nor reduced by the Imperial Diet without the concurrence of the government." Ito explains that "already fixed expenditures" include ordinary expenditures required by the organisation of the different branches of the administration and by that of the army and navy, the salaries of all civil and military officers, and expenditures that may be required in consequence of treaties concluded with foreign countries; "such expenditures as may have arisen by the effect of law" include the expenses of the Houses of the Diet, annual allowances and other miscellaneous allowances to the members, pensions, annuities, expenses, and salaries required by the organisation of offices determined by law, and other expenses of a like nature; and "expenditures that appertain to the legal obligations of the government" include the interest of the national debt, redemption of the same, subsidies or guarantees to companies, expenses necessitated by the civil obligation of the government, and compensations of all kinds, and the like.[1] These are the expenditures which cannot be either rejected or reduced by the Diet without the concurrence of the government.

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[1] Art. LXII.; *Commentaries*, p. 114.

[2] Imp. Ord. No. 84, 1892.

[3] In the fiscal year of 1905-6 the administrative fees and other revenues having the nature of compensation amounted to 176,131,216 *yen* out of the total ordinary revenue of 475,737,999 *yen*.—Vide *The Annual of the Department of Finance*, 1908.

Moreover, Article LXIV. of the Constitution provides that "any and all expenditures over and above the appropriations set forth in the Budget shall subsequently require the approbation of the Imperial Diet." This implies that the government can incur any expenditure over the estimates provided in its annual Finance Bill, and that which is unprovided as well, with the condition that it shall subsequently get the approval of the Diet. But does this last clause enable the Diet effectively to prevent the government from over-spending? Suppose that the government incurred extravagant and unnecessary expenses over the appropriations, and the Diet refuses to give its approval. Then what will happen? Money is already spent, and the nation must pay it. "The action of the Diet in such cases," Ito maintains, "cannot affect the consequences of the expenditures already incurred by the government or of the obligations thereby devolving upon the government."[2] Hence it is not a sufficient safeguard against over-spending. In fact, on the occasion of the great earthquake in the provinces of Mino and Owari in 1891, the government incurred an expenditure amounting to 2,250,000 *yen* by an emergency Imperial ordinance, and subsequently sought to get the approbation of the Diet.

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[1] *Commentaries*, pp. 128, 129.

[2] *Ibid.*, pp. 123, 124.

Then a Special Committee in the House of Representatives, discovering certain irregularities in the spending of the money, asked the government to give explanations and furnish certain documents. But the latter not only refused to give sufficient explanations and furnish the documents, but made the disapprobation of the House one of the reasons for dissolution.[1] Thus the House was forced to give its assent in the next session, in spite of the fact that there was sufficient evidence of the irregularities.[2]

If the Cabinet Ministers were responsible to the Diet, there would be no great difficulty in checking these irregularities. But in Japan the Ministers of State are responsible only to the sovereign. Therefore, as long as they remain in office, they can ultimately control the Diet at their will.

In case the Diet has refused to vote on the Budget for some reason or other, or in the event of a dissolution of the Diet before having voted on the Budget, the government is empowered to carry out the Budget of the preceding year *en masse*,[3] and also to incur, if necessary, any amount of expenditure over the appropriations set forth in that Budget. Article LXX. of the Constitution states that "when the Imperial Diet cannot be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety, the government may take all necessary financial measures by means of an Imperial ordinance." Hence it may be said that the power of the Diet over the financial matters of State is not in reality the power to control, but merely to supervise. Yet it is the most important power vested in the Diet by the Constitution.

THE PRIVY COUNCIL

The Privy Council (*Sūmitsu-in*) of Japan occupies a peculiar position in her constitutional system. It is not like the Privy Council of England, from which the modern English Cabinet has grown up, and in which the English

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[1] Kudo, *Gikwai Shiko*, pp. 115, 116, 123; Imp. Ord. No. 205, Nov. 11, 1891.

[2] *Ibid.*, pp. 154–158.

[3] Art. LXXI.

Cabinet Ministers have their legal existence.[1] The Cabinet and the Privy Council are two separate and independent institutions, each having its own legal status prescribed by law, or, more precisely, by Imperial ordinance, though the Cabinet Ministers have their seats in the Privy Council by virtue of their office.[2] The Cabinet is, as we have already seen, a board of the chief executive officers, while the Privy Council is the deliberative body consisting of the chief legal advisers of the Sovereign. When it was first created in 1888 its members numbered twenty-six, including all the councillors, the president, vice-president, and the Cabinet Ministers, and it has now been increased to thirty-nine,[3] not with the idea of increasing its efficiency, but rather with the idea of creating offices for veteran statesmen who have no place in the administration. Imperial Ordinance, No. 22, April 28, 1888, states that the president, vice-president, and a councillor of the Privy Council shall be *personally* appointed by the Emperor.[4]

Its functions are chiefly of a consultative nature. It meets to deliberate on any important matters of State, when its opinion is asked for by the Emperor, and advises him according to its decision.[5] It is at the Emperor's pleasure to accept or reject its decision, and also to attend its meetings (though, in fact, his absence is more frequent than his presence).[6] The matter on which it is especially consulted are enumerated as follows :—

1. Matters which come under the jurisdiction of the Imperial House Law.
2. Drafts and doubtful points relating to Articles of the Constitution, and to laws and ordinances dependent on the Constitution.
3. Issuing of proclamation of the law of siege and of imperial ordinances.
4. International treaties and pledges.

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[1] Blauvelt, *The Development of Cabinet Government in England*, pp. 20, 21.

[2] Imp. Ord. (Organisation of the Privy Council), No. 22, April 28, 1888, Art. IX.

[3] Imp. Ord. No. 22, 1888, Art. II.; revised by Imp. Ord. No. 216, 1890.

[4] *Ibid.*, Art. III.

[5] The Constitution, Art. LVI.

[6] Imp. Ord. No. 22, 1888, Art. I.; Ito's *Commentaries*, p. 99.

5. Matters relating to the amendment of the constitution of the Privy Council.[1]

But the Privy Council, being purely the advisory body of the Crown, is denied any executive power. It cannot have officially any connection with the people, nor can it receive petitions, representations, or communication from either House of the Diet, from the people, or from any government office.[2] Its official connection is with the Cabinet only and with the Ministers of State.[3]

Now let us see how this official connection exists between the Privy Council and the Cabinet. On an extremely important matter of State the advice of the Privy Council is, as a rule, sought by the Emperor. Then the Cabinet Ministers and Councillors meet together to consider the question. If the Councillors are superior in ability and talent, they get an ascendency over the Cabinet Ministers, and can easily dominate the Council, as their votes, if taken *en bloc*, are treble those of the Cabinet Ministers. It is true that even then the Privy Council is not allowed to interfere with the executive; but, if its decision is adopted by the Emperor, it becomes supreme and can overrule any authority of the Cabinet.

But, if the Cabinet Ministers constitute a stronger group than the Councillors, it is not difficult for the former to incapacitate the latter and keep them in the background. Ten out of thirty-nine members of the Privy Council are Cabinet Ministers. This number is a minority, but it is just sufficient to make up the quorum of the Council.[4] Hence it is possible for the Cabinet Ministers to overcome their disadvantage, as it lies in their power to arrange the days and hours of meeting of the Council at their convenience.[5] Besides, the Cabinet Ministers have executive power, and directly come in contact with all government officials and with the Houses of the Diet; while the Councillors are not only divorced from all these connections, but are not even allowed to be members of a political party.[1] Therefore the Councillors, apart from the mandate of the Crown, have no legal basis upon which they can firmly stand in opposition to the Cabinet Ministers.

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[1] Imp. Ord. No. 216, 1890 (revision of Art. VI. of Imp. Ord. No. 22, 1888), Art. II. III.

[2] Regulation of the Business of the Privy Council (Imp. Ord. No. 22, 1888), Art. II. III.

[3] *Ibid.*, Art. III.

[4] Imp. Ord. (Organisation of the Privy Council), No. 22, 1888, Art. IX.

[5] *Ibid.*, Regulation of the Business of the Privy Council, Art. IX.

But when the Cabinet Ministers attain complete supremacy in the Privy Council they can use it to great advantage. Any action of the Cabinet may be subjected to the interpellation of the Diet, but that of the Privy Council cannot be questioned under any circumstances, even if both are determined by the same persons. It is true that a decision or resolution of the Privy Council produces no direct effect upon legislative and administrative matters of State unless adopted by the Emperor; but it is hardly possible for him to refuse his sanction to the policy of the Cabinet fully endorsed by the decision of the Privy Council. Thus it may happen that the Cabinet Ministers make use of the Privy Council to add special dignity and weight to their action, or to evade their responsibility.

Nevertheless, up to now there has been no serious conflict between the Cabinet and the Privy Council, as both have been and still are occupied by men of the same mode of thinking, in personal and intimate relations with each other, and both are responsible to the Emperor and not to the Diet. But there is already a strong tendency for Cabinet Ministers to rely more and more on the support of a majority in both Houses of the Diet. When the Cabinet Ministers in the course of time become responsible to the Diet, the friendly relation now existing between the Cabinet and the Privy Council may not continue. "If the Privy Council is," as Ito hoped, "competent to lend assistance to the wisdom of the Emperor, to be impartial, with no leanings to this or that party, and to solve all difficult problems, it will certainly prove an important piece of constitutional mechanism."[2] But if not, unforeseen difficulties may arise between the Cabinet and the Privy Council.

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[1] There is no law to prohibit Councillors being members of a political party, but we have a precedent in the expulsion of Count Okuma from the Council in 1891, because he had conferred with Itagaki, the leader of the Liberal Party; and in 1904 Ito left the *Seiyukwai* on the ground that he was appointed President of the Privy Council.

[2] *Commentaries*, p. 98.

CHAPTER III

THE IMPERIAL DIET

THE Imperial Diet is composed of two Chambers—a House of Representatives and a House of Peers.[1] The former consists of 379 Representatives, elected by 1,768,013 voters out of a population of 46,732,876[2]; the latter of 368, including 16 princes of the blood, 13 princes, 29 marquises, 17 counts, 70 viscounts, 56 barons, 122 Imperial nominees, and 45 representatives of the highest tax-payers.[3]

As to the rights or recognised powers of the Diet under the Constitution and Law of the Houses, Ito enumerates them in his *Commentaries* as follows: *First*, the right to receive petitions; *secondly*, the right to address the Emperor and to make representations to him; *thirdly*, the right to put questions to the government and demand explanations; and *fourthly*, the right to control the management of the finances.[4]

In the preceding chapter I have discussed the extent of the legislative power of the Diet, and also its power over the financial measures of the State, with reference to the Ministry. Therefore I shall now proceed to consider the other powers as well as the relative position and power of the two Houses of Diet in the matter of legislation.

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[1] Art. XXXIII.

[2] The House of Representatives, Statistics of the Tenth General Election, 1908; *Résumé Statistique de l'Empire au Japon*, 1907.

[3] These figures are taken from data specially prepared for the author through the courtesy of Mr. Hayashida, Chief Secretary of the House of Representatives. Princes of the blood, princes, and marquises have their seats in the House by right of birth; counts, viscounts, and barons are elected by the members of their respective orders; Imperial nominees are persons specially appointed thereto on account of their meritorious services or of their erudition. Representatives of the highest taxpayers are elected, one in each prefecture, by and from the payers of direct national taxes on land, industry, or trade. *Vide* Imp. Ord. concerning the House of Peers, Art. I.

[4] *Commentaries*, p. 62.

Now concerning the right to receive petitions. Either House can receive a petition addressed to it by any Japanese subject through the medium of one of its own members.[1] A petition thus presented is referred to the Committee on Petitions, but it can be brought into debate only by a special report of the Committee, or by the demand of not less than thirty members of the House.[2] Besides, as the power and influence of the Diet, independent of the government, is very limited, petitions to the Diet are not considered by the people as a very effective method of obtaining the legislation they desire. Nor do the Representatives of the people in the Diet give proper consideration to petitions, as they cannot do anything with them, unless the petitions are taken up by the government. As a matter of fact, until within the last few years, petitions from the people to the Imperial Diet received little recognition at the hands of its members.[3]

With regard to this right of the Imperial Diet there is one interesting point which we ought not to overlook. It is that both Houses of the Diet are debarred from receiving a petition which is concerned with the question of amending the Constitution, or with the administration of justice and administrative litigation.[4] The constitutional framers desired the Constitution to be kept as a sacred property of the Crown, and the administrative authority to be exclusively exercised by the officials of the government, who are not responsible to the Diet, and, therefore, were very careful to guard against any possibility of popular encroachment which they could foresee.

Now as to the right of interpellation. This is one of the most effective powers the Imperial Diet can exercise at present, particularly so in the House of Representatives. The majority of the members of the House of Representatives usually assume an antagonistic attitude towards the government. Their efforts to secure their own legislation meet with obstacles on every side. It is hardly possible for a Bill introduced to the House by its own members, without the support of the government, to be brought up for a second or third reading, as the government Bills have precedence over any Bill originated in the Diet.[1]

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[1] Law of the Houses, Art. LXII.

[2] *Ibid.*, Art. LXIV.

[3] Kudo, *Teikoku Gikwai Shiko, Bon-Rei*, p. 5.

[4] Law of the Houses, Art. LXVIII. LXX.

Moreover, the government may at any time order the prorogation of the House for a period of not more than fifteen days,[2] and by so doing it can delay the discussion of any Bill to which it is unfavourable; nay, more, it can dissolve the House at any time in the name of the Emperor.[3] Even if a Bill introduced by a private member passes through the House, it is often rejected or killed by delay in the House of Peers, which, as a rule, supports the government.[4] Even if the Bill passes the two Houses of the Diet, it will not receive the sanction of the Emperor if strongly opposed by the Cabinet Ministers. Thus the efforts of members of the House to get their own legislation passed are usually frustrated. Therefore, most politicians in the House of Representatives in Japan do not come down to the House intending to support the government and to pass certain government measures, like the majority in the House of Commons in England, except when the leading party or parties have been induced for some reason or other to co-operate with the government; but they attend in order to ply the government with questions, to ferret out faults and blunders in every nook and corner of the administration, and to expose all the mistakes of the government, and so to shake public confidence. This is one of the most effective methods of demonstrating the power of the representative body of the people that can be adopted under the present Constitution.

Their attack on the government is vehement rather than moderate and critical, like that of the Opposition party in the House of Commons, for the Japanese government is non-party and non-responsible. Lord Lansdowne aptly pointed out the different nature of opposition to a responsible and to a non-responsible government while criticising Lord Morley's scheme on the Indian Councils Bill: "The circumstances (or rather nature) of the opposition in this country and the opposition so called in India is widely different. The opposition in this country criticises the government, with the feeling at the back of its mind that a time may come when it changes place with the government, and when it will have to incur the responsibility which rests for the moment with the government. But you can never allow the Indian to turn the government out, and therefore the two cases really are fundamentally different."[1] Japanese politicians in the House of Representatives cannot at present entertain a hope that they may have to incur the responsibility of government. Hence, their attitude towards the government is usually vigorous and non-conciliatory, and their actions are sometimes even impolitic. The more vigorous the opposition, as a rule, the wider the support and enthusiasm it is likely to receive both in and out of the House.

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[1] Law of the Houses, Art. XXVI.

[2] *Ibid.*, Art. XXXIII.

[3] The Constitution, Art. VII.

[4] The relation of the two Houses to each other is dealt with in the latter part of this chapter.

On the other hand, the government is well able to fortify itself against the attacks and criticisms of the House or to evade its responsibilities. A member of the Cabinet can answer or refuse to answer at his pleasure any question put to him by the members of the House, stating simply his reason for refusal.[2] In the case of refusal, some such reason as that "matters concerning the foreign policy of the State require secrecy," is almost invariably given by Cabinet Ministers. It is not uncommon for a Cabinet Minister to use even the name of the Emperor to defend his action, or rather to evade his responsibility. When Ito was Prime Minister in 1895, he was much pressed in the House with continuous questions as to the *post-bellum* policy of the government in regard to Korea. Then he declared that "the foreign policy of the government is determined by the sacred decision of His Imperial Majesty, and the Cabinet Ministers are not at liberty to promise what policy the government will pursue in certain matters of State." (*Taigai no shiochi itsuni Shison no seidan ni izuru; Kakushin tarumono midarini mizen no koto-wo Gikwai ni yaku suru atawazu.*)[3] Thus for a while Ito silenced the House.

But the fact must be recognised that, however anxious the Ministers of State may be to screen themselves behind the name of the Emperor, and however ingenious they may be in taking advantage of the peculiar mental habit of the people, they can, constitutionally, hold their position only so long as they can efficiently suppress any general rising among the people. Sooner or later their weakness and their blunders, if they make any, are bound to be exposed by the successive interpellations of alert and vigilant members of the Diet. Then great pressure is brought to bear upon the government by the Diet, the people, and sometimes even by members of the Privy Council—pressure which may eventually lead to a change of Cabinet.

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[1] Reported in *The Times*, December 18, 1908, p. 7.

[2] Law of the Houses, Art. XLIX.; Ito's *Commentaries*, p. 83.

[3] Kudo, *Teikoku Gikwai Shiko*, p. 330.

Next as to the right to present addresses to the Crown. This right is scarcely used to-day in the monarchical constitutional countries of Europe. But this right of the Diet of Japan is at present no less important than the right of interpellation. Owing partly to the peculiar political psychology of the people, and partly to the fact that the government not only is not responsible but also frequently screens itself behind the Crown, the right of address to the Crown is often exercised by the Diet, especially by the House of Representatives, to embarrass the government; and it is of great political value.

When, during the constitutional movement, the "United Association for the Establishment of a National Assembly" attempted to present a petition to the Emperor, it was rejected by an official of the government on the ground that the people have no right to present political petitions.[1] Before the introduction of the present Constitution, the people had no means of conveying their needs and desires to the Emperor, either directly or indirectly, except through the Ministers of State or the officials of the Court. But under the Constitution the Diet can now directly present addresses to the Emperor through its own President or Speaker.[2] This practically cuts the ground from under the feet of the Cabinet Ministers, who had hitherto monopolised the privilege of communication with the Emperor. It ought not, however, to be inferred that the Diet advises the Emperor by means of address to interfere with or to change the policy of the State. Far from it. The real value of this right is not any force it brings to bear upon the Emperor, but the peculiar effect produced on the minds of the people. In Japanese politics the name of the Emperor is one of the most valuable of assets; whoever uses it well is sure to increase his political power. And therein lies the importance and political value of direct communication between the Imperial Diet and the Crown. According to the traditional political ideas of the Japanese, the chief duty of the Ministers of State was to keep the country for the Emperor and to promote the happiness and prosperity of his subjects. To fail in this duty and allow the Emperor to be cognisant of the dissatisfaction and suffering of his beloved subjects was considered disloyal on the part of the Ministers and deserving of *harakiri*. It was, and still is, imagined by the masses that the wish of the Emperor to make his subjects happy and contented is akin to that of a kind father towards his children.

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[1] *Supra*, p. 85.

[2] Law of the Houses, Art. LI

Hence the Cabinet Ministers, as I have said before, frequently resort to the name of the Emperor to strengthen their own position or defend their action or evade responsibility. To counteract the privilege of the Ministers in using the name of the sovereign, the right of address is exercised by the Imperial Diet. Indeed, addresses to the Emperor by the Diet, except ceremonial addresses, are usually presented for the sake of pointing out the defects and unsatisfactory conditions of the administration, and of making the Cabinet Ministers appear to the people as thwarting the will of the Emperor. Unless they are able to refute the charges made against them, this shakes public confidence in the Ministers. Not only that, but they, as Ministers of a monarch who can do no wrong to his subjects, must either prove that the action of the House is wrong or acknowledge their own shortcomings. To do the former is to defy the House by a dissolution, and appeal to the country for its judgment and decision.[1]

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[1] But it ought to be understood that "appeal to the country" by a dissolution of the House has not here the same significance as it has in English politics. Japan has at present no party government, and therefore the party lines of the parties in the House are not so distinctly marked as the party in office and the party in opposition in the British Parliament, though the members of the House are naturally divided into two groups—the supporters of the government and

To do the latter is to tender their partial or joint resignation, and make a humble public apology, stating that they are incompetent to discharge their duties, and to relieve the Emperor from undue anxiety.[1]

Indeed, the right to present addresses to the Crown, in the hands of the Imperial Diet, especially of the House of Representatives, can serve in this way as a power of impeachment. In fact, four dissolutions out of seven in twenty years' Parliamentary experience since 1890 were immediately preceded by, or chiefly resulted from, addresses of the House of Representatives impeaching the Cabinet. One of the most extraordinary dramatic incidents in the impeachment of the Cabinet by means of address was that which led to a dissolution in December 1903. In this case the address of the House to the Crown was not an ordinary address of impeachment. The words containing the impeachment were by the device of the President, or Speaker of the House, and certain leaders of his party, cleverly couched within the ceremonial address of the House in reply to the Emperor's speech at the opening of the Diet.[2] Hitherto a ceremonial address of the House

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their opponents. If public opinion does not strongly support the step taken by the House against the government previous to the dissolution, the newly returned House does not take the same attitude, even if consisting substantially of the same members. At the same time a dissolution enables the government to continue the administration for at least five months from the time of dissolution (*vide* Art. XLV.) without the interference of the House, and prepare during this interval to meet the possible opposition of the new House. But after the dissolution, if the Ministers see that public sentiment is very strong against the government, they generally resign office. In this case pressure is usually brought to bear upon the Cabinet by the Privy Council.

[1] Cabinet Ministers in Japan, as I have said before, have not, as in England, collective responsibility. Therefore it is not necessary for all Ministers to resign at once; sometimes the Minister President and the Departmental Minister or Ministers who have been most subjected to criticism tender their resignation, while the rest remain in office.

[2] When the President, Kono Hironaka, read the address in the House before its presentation, the members of the House, it is said, paid very little attention to the wording of the document, thinking it was an ordinary ceremonial address containing nothing of any political importance, and unanimously voted for it. When the members of the House discovered later that the address contained certain words which were intended as an impeachment of the Cabinet, it was too late. When the government was informed of the nature of the address adopted in the House, it endeavoured to make the House reconsider it, but as this was found impossible, the government caused the Imperial Household Department to prevent Kono's going to the Court to present it, and at the same time ordered a dissolution.—*Gikwai Shiko*, pp. 864–866.

had contained nothing political whatever, being purely a matter of etiquette. This breach of the House's strict rule of etiquette provoked the government and led to a dissolution.[1] On two occasions, however, a change in the Cabinet has been brought about by an address of impeachment passed by the House of Representatives.[2] This is an instance in which the presenting of addresses by the House to the Crown can produce fruitful results. Beside this, in the ninth, fourteenth, eighteenth, and twenty-second sessions of the Diet, the House made unsuccessful attempts to pass addresses of impeachment, but on a division being taken the motions were lost.

The exercise of the right to present addresses is not confined to the impeachment of the Cabinet. The right of the Diet is almost co-extensive with the inherent sovereign power of the Crown; that is to say, the Imperial Diet can present addresses to the Emperor on any matter which falls within the sovereign power of the Emperor. Sometimes this power is exercised by the House to obtain the prolongation of the session, as the House cannot prolongate on its own account;[3] sometimes it is exercised to elevate the moral tone in politics by the effect which addresses have upon public sentiment. Even controversial points in the Constitution have been brought successfully before the Emperor by means of an address.[4]

Finally, as to the right to make representations to the Crown. Remember that legislation by the Parliament in England was originally merely the right to present petitions to the Crown. In the Middle Ages the King in Council was the active government; to him belonged the judicial power as well as the power of granting legal remedies.[5] "There was," says Anson, "at first no clear recognition of the right of the Commons to a voice in legislation; the King in Council had been wont to declare customs and make administrative changes; he sometimes continued to do so with the concurrence of the magnates only and without waiting for the assent of the Commons. . . . If they wanted new laws the Commons did not frame them, but asked for them; the Crown in Council legislated on petitions of the Commons."[1] The petitions which they recommended gained with each ensuing generation, a stronger stress changing their right of "praying" into a virtual right of co-resolution;[2] and from this right has gradually developed the system of legislation by Parliament.

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[1] *Gikwai Shi*, pp. 188, 189; *Gikwai Shiko*, pp. 864–866.

[2] *Ibid.*, *Shioshu-Zenki*, pp. 470, 864.

[3] Kwaiki Encho-no-Jioso, 1891, 1898; Art. VII.

[4] *Kizokuin-no-Jioso*, July 11, 1892; Shūgi-in-no-Jioso An in regard to the dismissal of Judge Kono (Art. LVIII., sec. 2), 1898; *supra*, p. 131, footnote.

[5] Gneist, *History of the English Parliament*, vol. ii. p. 13.

The right of the Diet to present addresses to the Crown is important, chiefly because it serves as a power of impeachment. It is a destructive force to counteract the arbitrary rule of Ministers. The right of the Diet to make representations to the Crown is important, because it may lead to the initiation of needed legislation.

Representation is, we may say, an indirect address to the Crown by the Diet, as it is made to the Crown through the Cabinet.[3] The main object of presenting most representations is to give advice or suggestions to the government.[4] Though representations are addressed to the Crown, they are intended for the government rather than for the Crown. The House of Representatives frequently exercises this right, and calls the attention of the government to the necessity for certain new laws. Though apparently the longest and most round-about way of getting new legislation, the Diet itself having the power to initiate legislation, yet it is, perhaps, in the end the easiest and best possible way for the Japanese Diet under existing circumstances. There a Bill originating in the House has scarcely a chance of becoming law, unless taken up by the government. Therefore to urge the government to bring in necessary legislation, and cause them to draw up a Bill and bring it into the House rather than let the House take the trouble of originating a Bill itself, is the longest yet actually the shortest way to legislation, so long as the Diet remains subordinate to a Ministry not responsible to it.

Besides these important rights of the Diet—right to receive petitions, right to put questions to the govern-

[1] *Law and Customs of the Constitution*, vol. i. 3rd ed. p. 17.

[2] Gneist, *History of the English Parliament*, vol. ii. p. 13.

[3] Kudō, *Giinhō Teiyo*, p. 21.

[4] *Ibid.*

ment, right to present addresses to the Crown, and right to make representations—which we have already considered, other minor rights and privileges are granted to the members of the Diet under the Constitution.[1] But, as they are mostly rights common to almost all constitutional systems, I shall pass over them in silence and proceed immediately to deal with the relative power and position of the two Houses of the Imperial Diet.

All rights and powers granted to the Diet with regard to legislative matters are equally granted to both Houses by the Constitution and its supplementary rules and regulations, except that the Budget is to be brought in first to the House of Representatives.[2] Hence the two Houses are supposed to be co-ordinate, and neither the one nor the other, superior or subordinate, but both to co-operate in legislation with equal power.[3] This might be possible, if the two Houses were composed in exactly the same way and had the same political views and ideas. But the House of Peers and the House of Representatives have an entirely different composition and represent different communities and interests. Therefore conflict is more likely than harmony; and conflict must end in a complete deadlock, or the supremacy of one party or the other.

Where there is a two-chamber system of legislature, one chamber or the other necessarily becomes pre-eminent, if not in all matters of State, certainly in some.

For instance, in the English Constitution Professor Dicey says: "The general rule that the House of Lords must in matters of legislation ultimately give way to the House of Commons is one of the best-established maxims of modern constitutional ethics."[4] As early as 1671 the

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[1] Freedom from arrest, liberty of speech in debate, the right to provide for the due constitution of its own body, the right to regulate its own proceedings, the right to enforce its privileges by fine or by expulsion, &c. *Vide* Art. LI. LII. LIII.

The present law of the Houses, which provides all rules and regulations necessary for the management of internal affairs in the Diet, was drafted by the framers of the Constitution, and promulgated at the same time (11th February 1889) as the Constitution. It is now very difficult for the House of Representatives to amend the law, though the Diet has the right to provide for the due constitution of its own body, as the House of Peers stands in its way.

[2] Art. LXV.; Law of the Houses, Art. LIII.

[3] Kudō, *Giinhō Teiyo*, p. 285.

[4] *The Law of Constitution*, 6th ed., p. 402.

Lords gave full precedence to the Commons in the matter of Money Bills.[1] Again, in 1860 the dispute over the Paper Duty finally debarred the Lords from imposing or remitting taxes.[2] The Constitution of the United States gives the House of Representatives the exclusive power of originating all Bills for raising revenue, while it delegates to the President and the Senate the exclusive power of treaty-making and appointing certain high public officials.[3] But, as a matter of fact, owing to the peculiar construction of the Constitution, the President and the Senate, not the House of Representatives, backed by five judges out of the nine of the Supreme Court, can virtually rule the country.[4]

The French Constitution of 1875 provided: "Le pouvoir legislatif s'exerce par deux Assemblées: Le Chambre des députés et le Sénat.[5] Le Sénat a, concurrement avec la Chambre des députés, l'initiative et la confection des lois.[6] Toutefois, les lois de finances doivent être, en premier lieu, presentées à la Chambre des députés et votées par elle."[7] This bears a literal semblance to certain provisions of the Japanese Constitution, which read as follows: "Every law requires the consent of the Imperial Diet, the House of Representatives, and the House of Peers.[8] Both Houses may respectively initiate projects of law.[9] But the Budget shall be first laid before the House of Representatives."[10] Yet when we come to examine the actual working of the two Constitutions, we find these literally similar expressions work out very differently.

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[1] Thwaites, *Guide to Constitutional Law*, p. 59.

[2] *Ibid.*, p. 60. There are still some who maintain that the House of Lords has the right to amend or reject the Finance Bill, provided that it "contains provisions of the highest political and social importance," while others argue that it is now firmly established by constitutional precedences that the House of Lords is positively denied that right; but all those who maintain that the House has the right seem to say that the House can wisely exercise it only when it is certain that the majority in the House of Commons, who support the Finance Bill, are not acting in conformity with the opinion of the majority of voters in the country. *Vide* the House of Lords and the Finance Bill, *The Times*, July 5, 1909; November 13, 14; Article of the same title, Professor Dicey, *The Times*, August 3, 9; Mr. Asquith's speech on the Budget in Birmingham, *The Times*, September 18, 1909; Sir William Anson, *The Times*, October 22.

[3] The Constitution of the United States, Art. I. sec. 7; Art. II. sec. 2.

[4] J. Allen Smith, *The Spirit of American Government*, chap. v. "The Federal Judiciary."

[5] Lois Constitutionnelles, Loi Relative à l'Organisation des Pouvoirs Publics, 25–28 février 1875, Art. I.

[6] Loi Relative à l'Organisation du Sénat, Art. VIII.

[7] *Ibid.*

[8] Art. XXXVII. XXXVIII.

[9] Art. XXXVIII.

[10] Art. LXV.

As the French Constitution works to-day, the Chamber of Deputies practically exercises sole power over the Budget,[1] and thus Ministers of State are practically made responsible to it alone,[2] despite the Constitutional provision, "Les Ministres sont solidairement responsables devant les Chambres de la politique générale du gouvernement."[3] However, as the two Chambers of France ultimately proceed from the same source, *i.e.* universal suffrage—the one is chosen by direct and the other by indirect election—we must say that the ultimate control of all affairs of State in France is in the hands of the people.

Now let us consider the relative power and position of the two Houses of the Japanese Diet, in spite of the letter of the Constitution. The best way to approach this subject is, I think, to revert to the intention of the framers of the Constitution.

The chief object of the framers in establishing the House of Peers was to check and restrain the organised activities of political parties in the House of Representatives. They wished the government or the Cabinet Ministers not to be subjected to "the influence of one-sided movements" and "the despotism of the majority" of the House of Representatives.[4] They thought that the House of Peers, which is composed of "the higher grades of society," would check this much-dreaded political tide in the House of Representatives and protect the government from its encroachment.[5] "If the House of Peers fulfils its functions," says Ito, "it will serve in a remarkable degree to preserve an equilibrium between political parties,[6] to check the evil tendencies of irresponsible discussions (in the House of Representatives), and to be an instrument for maintaining harmony between the governing and the governed.[1]

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[1] Burgess, *Political Science and Constitutional Law*, vol. i. p. 172. F. R. Dareste, *Les Constitutions Modérnes*, deuxième ed., vol. i. p. 12, footnote.

[2] *Ibid.*

[3] Loi Relative à l'Organisation des Pouvoirs Publics, Art. VI.

[4] Ito, *Commentaries*, p. 64.

[5] *Ibid.*, p. 65.

[6] By political parties here are evidently meant those in the House of Representatives. They never thought that the Peers would have political parties.

But an equalisation of political power in the two Houses means a complete deadlock in the legislature. This was certainly not desired by the framers. What they really desired was the suppression by the Upper House of any strongly organised political parties in the Lower House, and the maintenance by the government of complete supremacy over the National Assembly.[2] Thus the question arises: Does the House of Peers maintain the position which the framers of the Constitution desired?

In the House of Peers, out of a total of 368 members, 201 are hereditary and representative Peers, and 122 Imperial nominees, including 40 Peers, while the remaining 45 are the representatives of the highest tax-payers. It is scarcely necessary to say that these 201 nobles are, generally speaking, naturally inclined to maintain their exclusive social as well as political prestige, and are by no means greatly in sympathy with the extension of political power to the masses, unless they are moved by exceptionally high ideals or patriotic sentiment. These nobles, when uniting together, form a majority in the House. Next to them in numbers come the Imperial nominees. They are mostly government officials, semi-government officials, or ex-government officials, and their sentiments and thoughts are closely allied to that of the government. Moreover, they owe their seats to the government. Of course, according to the letter of the law, they are nominated by the Emperor, on account of their erudition, or their meritorious services to the State;[3] but the Emperor nominates them on the advice of Ministers of State not responsible to the people. These Imperial nominees hold office for life;[1] and being generally the ablest men in the House, exercise a dominating influence there.

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[1] Ito, *Commentaries*, pp. 65, 66.

[2] It is interesting to observe that certain prominent constitutional writers, still under the influence of the orthodox idea of the supremacy of the governing over the governed and of the sovereignty of the Crown, maintain that the Imperial Diet is not, from the strict juristic point of view, a representative body of the people, but simply a legislative organ of the Emperor, and, hence, that it has no right to demand from the government needed legislation by the people. *Vide* Kudo, *Giinhō Teiyo*, chap. i. p. 6.

[3] Imperial Ordinance concerning the House of Peers, Art. I. sec. 4.

Naturally, these Imperial nominees and nobles assume the superiority of the Upper House, and do not desire to yield one iota to the Lower House. Here is an interesting instance. On March 5, 1902, Mr. Nemoto made a speech in the House of Representatives concerning the question of reform of the House of Peers; he denounced certain Imperial nominees, and bitterly criticised the system of life tenure of office.[2] The Peers were very indignant, and passed a Resolution censuring the speech of Nemoto in the other House, stating that it was contempt of the House of Peers; and that to permit such a speech to be delivered in a legislative Chamber was impolitic and injudicious.[3]

The remaining forty-five members of the Upper House are the Representatives of the highest tax-payers. This group, comprising about one-eighth of the total number of the Peers, consisting, as it does, of men of wealth and not of intellect, is the most incompetent and least important of the three groups.

This analysis of the composition of the House of Peers, I believe, indicates the general tendency of its political force. The House of Peers almost invariably supports the Ministry, or government, no matter who forms it, so long as the government firmly adheres to its traditional principle of bureaucracy and stands aloof from the political parties in the Lower House; just as the House of Lords in England, as a rule, sympathises with a staunch Tory government and supports it.[4] But if the Cabinet

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[1] Imperial Ordinance concerning the House of Peers, Art. V.

[2] *Gikwai Shi*, p. 156.

[3] The House of Representatives as a body ignored the Resolution of the Upper House. But the President of the House of Representatives read his memorandum before it, stating that the two Houses must show certain courtesies to each other; but each has its own autonomy, and the one has no right to supervise the speeches and actions of the other.

[4] But the power of the House of Lords in the English Constitution is very limited compared with that of the House of Commons, and is ultimately to be overcome by the latter, while the power of the House of Peers, according to the letter of the Japanese Constitution, is equal to that of the House of Representatives. This fact must be taken into consideration when we make an analogy between the House of Lords and the House of Peers in the event of their opposition to, or their support of, their respective governments.

Ministers join hands with a political party or parties in the House of Representatives and co-operate with them, then the House of Peers becomes more or less hostile towards the government. In 1900, Ito, discarding his own traditional view of the Cabinet,[1] took the rôle of leader of the newly reorganised old Liberal Party under the name of *Seiyukwai* (literally, Political Fraternal Association), and formed a Ministry on something resembling party lines under his own Premiership.[2] No sooner had this happened than six political factions in the House of Peers united together and resolved to oppose the Cabinet, partly because it was in their eyes a party government and partly because Ito had abandoned his former attitude and yielded to the power of political parties.[3] So persistent was the determination of the House of Peers to oppose the government that Ito exhausted all ordinary devices of inducing or persuading them to pass the Budget for the year 1901, and was compelled finally to resort to an Imperial Rescript in order to bring their opposition to an end.[4]

But, on the other hand, so long as the Cabinet Ministers maintain the principle of bureaucracy and non-responsible government, they hardly ever fail to find sympathisers and supporters in the majority of the House of Peers. It is not unusual for the House of Peers to amend or re-amend a Bill passed by the Lower House in the manner wished by the government, or to reject or kill, by putting off debates, a Bill passed by the other House, which is not liked by the government. Several most repressive and arbitrary laws, such as the Law of Meeting and Association of 1882, Press Law of 1883, and Peace Preservation Law of 1887, enacted by the government against the organised political activities of the people before the promulgation of the Constitution, remained for several years in force after the inauguration of a constitutional *régime*, owing to the co-operation of the House of Peers with the government, in spite of the determined efforts of the House of Representatives. In several successive sessions the House of Representatives passed Bills for repealing or revising these repressive measures, sometimes even unanimously, but they were always thrown out by the House of Peers. On account of the House of Peers, therefore, it was not until 1898 that the Peace Preservation Law was repealed. The conflicts and struggles between the two Houses over the Reduction of the Land Tax Bill in the first and third session, and the Revision of the Land Valuation Bill in the fourth and fifth session, and the Electoral System Reform Bill in the eighth, twelfth, thirteenth, and fourteenth sessions, &c., are also good examples showing the attitude of the House of Peers towards the government with regard to the Lower House.[1]

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[1] Ito, as well as other framers of the Constitution, not only hoped that the government under the Constitution would be placed beyond the influence of political parties in the House of Representatives, but also insisted on the realisation of this hope at the beginning of the constitutional *régime*. *Vide* Ito's speech in the Assembly of Prefectural Governors on February 15, 1889. We call this political principle of the framers *Shiozen Shugi*, or "Transcendentalism," or "Independence of the Government," or "Ministerial Independence."

[2] *Gikwai Shiko*, pp. 663, 664. Then out of the ten Cabinet Ministers seven belonged to the *Seiyukwai*.

[3] *Ibid.*, pp. 664, 665.

[4] Imperial Rescript of March 13, 1901; *Gikwai Shiko*, pp. 691, 692.

Especially in the case of a large curtailment of the Budget by the House of Representatives, which much embarrasses the government, the House of Peers is able to render valuable support, inasmuch as its control over financial measures is equal to that of the other House.[2] Often the House of Peers restores certain items in the Budget or any other money bill, and sends it back to the Lower House for reconsideration.[3] In this case the latter is not likely to agree to the amendment of the former. This compels the Lower House to demand a conference to adjust the difference.[4] The conference is composed of an equal number of delegates from both Houses.[5] It is hardly necessary to say that in a conference of this kind the delegates of both Houses fight to the utmost on behalf of their own House. But the delegates of the Lower House find themselves in a dilemma: they must either adjust the Bill by yielding to certain of the demands of the opposition party,[1] or face a dissolution of the House; while the delegates of the Upper House suffer no such inconveniences. The situation may well be compared with that of a conference of the delegates of poor-wage earners and wealthy employers meeting to adjust a dispute over wages.

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[1] The agricultural class and landed interests are mostly represented in the Lower House of the Japanese Diet, for there is in Japan no land monopoly in the hands of the nobles as in England. Therefore, all questions concerning the reduction of land taxes are naturally strongly supported by the majority in the Lower House, while the contrary is usually found to be the case with the Upper House and the government, as the land tax is one of the greatest sources of national revenue.

[2] *Vide* The Decision of the Crown in the Controversial Clause of Interpretation of Art. LXV., June 13, 1892.

[3] Law of the Houses, Art. LV.

[4] *Ibid.*, Art. LV.

[5] *Ibid.*, Art. LVI.

Theoretically speaking, the House of Peers is more strongly constituted and more advantageously placed than the House of Representatives. If the House of Peers is backed up by the Ministry, or the Ministry is supported by the House of Peers, it is not difficult for either of them to completely subordinate the Lower House; while it is not at all an easy matter for the Ministry to control the Upper House, even with the support of the House of Representatives. The House of Peers can stop all legislation, however important and necessary it may be, and it cannot be dissolved. It is true that the Ministry may advise the Emperor to create a great many Imperial nominees and Peers above the rank of count and so swamp the Upper House, but this is not so simple as a dissolution nor so easily carried out.

Nevertheless, the House of Peers has one great drawback. It is far removed from the people. Whether the fundamental principle embodied in a Constitution is the doctrine of the sovereignty of the people or that of the sovereignty of the monarch, the force which ultimately determines the course of political development in a nation permanently resides in the people. That the House of Peers is not a representative body and has within it no representatives of the people signifies its weakness, in spite of the fact that it was given equal power with the Lower House by the Constitution and a superior position. In fact, interest and attention are becoming more and more centred on the House of Representatives. But it is a very difficult matter for the Lower House to establish its legal supremacy over the Upper, for at present the bureaucracy works hand in glove with the House of Peers. Until this is accomplished, however, the smooth working of the Constitution is impossible.

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[1] A Bill that has been adjusted in a conference cannot be amended in either House. Vide *Ibid.*

CHAPTER IV

THE ELECTORAL SYSTEM

EITHER by the wisdom of the framers of the Constitution, or by the mere accident of imitation, the Election Law, in spite of its being a fundamental part of any constitutional system, was fortunately made statutory, and was not included in the Constitution proper, which is extremely difficult to amend, or impossible to be amended, in the ordinary course of legislation.

Sir William Anson tells us how the balance of power in the English Constitution has been shifted since 1867 by the alteration of the status of the electorate, without any marked change in the great framework of government. We are told that the power possessed by the Commons to choose and control the Ministers of the Crown, and the conduct of the government by discussion in the House of Commons, these two features which were then so much insisted on by Bagehot, one of the keenest of contemporary critics, as the most essential of good Parliamentary government, have already disappeared. "The electors, not the Commons," says Anson, "choose the government; the government, not the Commons, determines the limits of discussion."[1] "The electorate, enormously extended by the Franchise Act of 1884, is no longer 'deferential.' A constituency does not send a man to Parliament, because it is thought that he can form a better opinion on the topics of the day than the voters who send him there. He is sent to vote for the Minister and for the measures acceptable to the party organisation by whose exertions he has been returned. We have moved a long way from Bagehot's conception of Parliamentary government."[2]

The original Election Law of Japan was drafted by the framers of the Constitution and promulgated in 1889, the year of the promulgation of the Constitution. When the law was put in operation, it not only showed many defects, but also dissatisfied many politicians, particularly on account of the very high property qualification of both voters and candidates. Nevertheless, six General Elections were held before the law was finally revised in 1900. The revised law is the one which regulates our present electoral system.

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[1] *Law and Custom of the Constitution*, vol. ii. 3rd ed., Introduction, p. xxviii.

[2] *Ibid.*, vol. ii. 3rd ed., Introduction, pp. xxii. xxiii.

Under the old law of 1889 the system of small electoral districts, combined with the principle of a single-member constituency, was adopted. Then each *fu* or *ken* (city or prefecture),[1] *i.e.* administrative district, was divided into several electoral districts, of which there were 257 in all, and each of which constituted a single-member constituency, with the exception of some large districts which, being impossible of further division, on account of their topographical condition, had two seats allotted to them, and a *scrutin de liste*.[2]

The number of representatives in the Lower House was fixed at 300, and there were about 450,000 voters at the first General Election (July 1, 1890), and 501,457 at the sixth General Election (August 10, 1898)—which was the last under the old law—out of a total population of 42,000,000.[3] The official life of representatives was four years.[4]

The qualifications of an elector under the old law were that he must be a male Japanese subject over twenty-five years of age (not a lunatic, idiot, criminal, undischarged bankrupt, or military man in active service, &c.), residing for more than one year in the administrative district (*fu* or *ken*) where he voted, and paying direct national taxes to the amount of not less than fifteen *yen* (about thirty shillings) for the year previous to the date of the drawing up of the electoral list, which was prepared every October by the local government.[5]

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[1] *Fu* is not the ordinary term of city; it means capital city. Only Tokyo, Kyoto, and Osaka are called *fu*.

[2] The Law of Election of 1889, Art. I. LI. sec. 4; Appendix,

[3] Official returns of the House of Representatives in the sixth General Election; the 11th Census, or *Tokei Tenkan*.

[4] The Law of Election, 1889, Art. LXVI.

[5] *Ibid.*, Art. VI.

The qualifications of a candidate were, in the main, the same as those of an elector, except that he must be over thirty years of age instead of twenty-five.[1]

Perhaps one of the most peculiar features of the Election Law interesting to Occidentals was the disqualification of Shinto or Buddhistic priests, Christian clergymen, and teachers of religion from becoming candidates for parliamentary election.[2] The chief object of this clause was to prevent the mingling of religious teaching with temporal matters of State. This is still retained under the revised law of 1900;[3] and by it all teachers in elementary schools and those who have business contracts with the central government are also disqualified.[4]

The chief defects of the old electoral system were the disproportionate distribution of voters in the electoral districts, certain property qualifications of the electors, the smallness of the division of electoral districts, the property and residential qualification of candidates, the system of *scrutin de liste* and publicity of the vote.

It seems that the framers of the Constitution had but a vague notion of the full effect which the form an electorate takes has upon the real working of a Constitution.[5] They drew up an Election Law after the model of those of certain Western countries. The distribution of votes and seats and the qualifications of voters and candidates were arrived at quite mechanically. They fixed the property qualification of voters and candidates at the payment of fifteen *yen* of direct national taxes, and did not consider seriously which class of the people would secure the most and which class the least votes. They simply and mechanically marked out electoral districts in each administrative district (*fu* or *ken*), and allotted to them one or two representatives at the rate of one representative to every 120,000 people;[6] they did not make a serious study of local variations and differences in the status of the people. To those districts which had a population of between 100,000 and 200,000 was assigned one seat in the House of Representatives, and those which had a population of between 200,000 and 300,000 were allotted two seats.[1]

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[1] The Law of Election, 1889, Art. VIII.

[2] *Ibid.*, Art. XXI.

[3] Revised Election Law, Art. XIII.

[4] *Ibid.*, Hayashida, Senkioho Shakugi, p. 37.

[5] *Vide* Ito's speech on the Electoral Reform Bill in the twelfth Session of the Diet.

[6] Senkioho Kaisei Iken, Kokumin-no-Tomo, 1892, No. 198.

The result was that certain electoral districts with only 52 or 53 voters had one seat in the House, while certain other single-member constituencies had more than 4300 voters.[2] Owing to this disproportionate distribution of votes in electoral districts, it often happened that the minority of the voters obtained the majority of the members; and, at the same time, a political party with the majority of the votes at all the polls could not secure any representative at all. For instance, in the first General Election, in the prefecture of Kawaga the Progressive Party (*Gi-in-Shiu-Kwaijio*) secured one representative with 1241 votes, while the Liberal (*Jiyu Kurabu*) captured three seats with 1160 votes; in the prefecture of Yehime, the Progressives secured only two seats with 3542 votes, while the Liberals had five seats with 3260.[3] In the Second General Election the Reactionists (*Chiuo Koshiokwai*) obtained five seats with only 817 votes in the prefecture of Nagasaki, while the Liberals (*Yayoi Club*) had two seats with 1321 in the prefecture of Nara; the Independents (*Dokuritsu Club*) secured four seats with 5149, but the Liberals failed to gain one with 3574.[4] In the fourth General Election, the ultra-Conservatives (*Kokumin Kiokwai*) in the prefecture of Fukuoka secured five seats with 7442 votes, but the Liberals (*Jiyu-to*) in the same prefecture only four with 10,451 votes.[5] In the prefecture of Saga the Progressives (*Shimpo-to*) captured four seats with 6978 votes, while the Liberals (*Jiyu-to*) with an almost equal number of votes, *i.e.* 6963,[6] had none. These are only a few instances among many in the six General Elections held under the old Election Law.

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[1] Hayashida, Senkioho Kaisei Iken, Kokumin-no-Tomo, 1892, No. 198.

[2] *Ibid.*, Shimane-Ken, 6th Electoral District, had only 52 voters; Kagoshima-Ken, 7th District, 53; Nagasaki-Ken, 6th District, 55; Fukushima-Ken, 5th District, 4295; Shiga-Ken, 2nd District, 4379; Miye-Ken, 3rd District, 4568, &c.

[3] Senkioho Kaisei, Kokumin Shimbun, July 8, 1899; Hayashida, Senkioho Shakugi, Appendix, p. 33.

[4] Hayashida, Senkioho Shakugi, Appendix, p. 33.

[5] *Ibid.*

[6] *Ibid.*, p. 34.

The next great defect of the old system was the disproportionate representation of different classes of the people, due to the property qualification which had been fixed at the payment of fifteen *yen* of direct national taxes. In 1889, the year in which the Election Law was promulgated, about two-thirds of the direct national taxes consisted of land taxes, but the legislators had not taken this into consideration, and framed the law in such a way that the different classes of society would be represented in the House. Therefore the great majority of the voters were of the agrarian class. Besides, as municipalities (except the cities of Tokyo, Kyoto, and Osaka) had no separate independent electoral districts, the urban voters of a district were often defeated by the rural voters. Consequently, the House of Representatives was dominated by members representing the agrarian population and their interests, while those who represented the mercantile and manufacturing classes were but a small fraction. Mr. Hayashida, Chief Secretary of the House, speaking before the Commercial Club of Kumamoto in 1900, stated that only seventeen out of the three hundred members of the House really represented the interests of the urban population.[1]

Another defect of the old law was that it disqualified certain men of ability fit to serve as representatives in the Diet, and so prevented their election. The high property qualification of fifteen *yen* of direct national taxes, together with the residential qualification of one year, excluded many able men from political candidature. It is not rare in Japan to find intelligent and accomplished men in poor circumstances. Comparatively speaking, education and refinement in Japan is not the monopoly of the wealthy class as in England. With us education and refinement are more respected than pecuniary possessions. Then most of the capable politicians belonged to the *samurai*, formerly the fighting class. Under the feudal *régime* the *samurai* lived on annual hereditary pensions paid to them by their lords, and cared very little for the accumulation of wealth. Most of them were poor, and very few of them owned land. Therefore, after the abolition of feudalism, a large number of them were frequently changing their residence. Thus some of their most able politicians were prevented from becoming candidates.

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[1] Senkioho Shakugi, Appendix, p. 163.

Moreover, the system of small electoral districts caused sectionalism to play an influential part in elections. Men of ability and high qualifications were not infrequently defeated by local magnates or large landowners, whom we sometimes call satirically "local braggarts" (*Chiho no Kotengo*), simply because of the latter's social position in the district. Furthermore, the system of *scrutin de liste* in two-member constituencies increased the number of inefficient members, enabling utterly inefficient persons to be returned, simply because their names were placed on the same voting paper with some popular candidate.

Another cause of complaint under the old system was the publicity of the vote; that is, requiring the signature of the elector in the presence of the election officers.[1]

Mr. Wallas ably criticises the merits and demerits of secret and open voting from the standpoint of Bentham's utilitarian view of pleasure and pain, and from that of Mill's intellectualist's view of moral conduct, and concludes by saying, "Apart from direct intimidation, the voice of the canvasser, the excitement of one's friends, the look of triumph on the face of one's opponents, or the vague indications of disapproval by the rulers of one's village, are all apt to be stronger than the shadowy and uncertain conclusions of one's thinking brain."[2] Indeed, Japan's experience showed her that open voting, by considerably disturbing the natural settlement of those conflicting forces, which struggle together in the voter's mind, such as the voice of the canvasser, the sentiment of duty, the dignified look of local magnates, the speechless signs of approval or disapproval on the part of the supervising officers, and the fear of the candidate to whom a promise has been made, did not afford the best opportunity for a voter to exercise his privilege. Moreover, the publicity of the vote, instead of discouraging, encouraged the practice of bribery. With open voting bribery is more effective, as the briber can ascertain afterwards how the man who gave him a promise voted.

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[1] The Election Law, Art. XXXVIII.

[2] *Human Nature in Politics*, pp. 214–217.

In 1895 an Electoral Reform Bill was first introduced to the House of Representatives by private members.[1] The main point in the Bill was the extension of the franchise by lowering the property qualification of both electors and candidates from fifteen *yen* of direct national taxes to five *yen*, and, in the case of income tax, to three *yen*, and also by reducing the qualifying age from twenty-five to twenty for the elector, and from thirty to twenty-five for the candidate.[2] This was, indeed, a great measure when we consider the increase in the number of voters. It was intended to increase them fourfold. Though the Bill was opposed by the government, it passed the Lower House with a large majority. But it was rejected in the Upper House, on the ground that such an important Bill could not be passed without great caution, and, moreover, that the time was not ripe for the extension of the franchise.

But three years later an Electoral Reform Bill was again brought into the House of Representatives, not by private members, but by Ito's Cabinet. It was Ito's former Cabinet that had opposed the Bill of 1895. It was also Ito who had been one of the chief instruments in introducing the old electoral system. But Ito himself now brought into the Diet a Reform Bill which was no less radical in its essential parts than that of 1895, and endeavoured to bring about a thorough reform of that electoral system for which he had been mainly responsible nine years ago.

It may be asked why Ito changed his attitude. The principal reasons seem to me to be two: the one personal, the other political. As to the personal reason, Ito is not only the most open-minded, progressive, and least prejudiced of all the so-called clan statesmen of Meiji, but also more capable of reflecting public opinion and of responding to the needs and demands of the people.

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[1] Yamashita and others, Senkiohochiu Kaisei An, or Electoral Reform Bill.

[2] *Ibid.* The Law of Election of 1889, Art. VI. VIII.

Besides, Ito cherished an ardent desire to see the healthy growth and development of constitutional government, for the introduction of which he had been chiefly responsible, and there had been for some time a strong opinion among politicians in favour of reforming the electoral system. As regards the political reason, Ito thought that the introduction of a Bill favoured by the majority of the House might mitigate their antipathy to the government. Previous to the opening of the session he endeavoured to obtain the co-operation of either the Progressive Party (*Shimpo-to*) or the Liberals (*Jiyu-to*), but the attempt was frustrated by the opposition of one of his colleagues, Count Inouye, Minister of Finance. Therefore he employed an indirect method of working upon the minds of politicians in the House and of softening their antagonistic spirit, knowing it impossible for the government to conduct its administrative work successfully without the co-operation of the legislative body.

Ito's Bill was more elaborate than the previous one, and meant a more thoroughgoing reform of the electorate. Its main points were the adoption of large electoral districts, combined with the principle of a single non-transferable vote, the extension of the franchise by reducing the property qualification of the elector almost to the scale formulated in the other Bill,[1] the creation of an independent electorate in municipalities with a population of over 500,000, an increase in the number of Representatives from 300 to 472, and the abolition of the property and residential qualification of the candidates.[2] The bill aimed chiefly, no doubt, at remedying some of the existing defects. But, apart from that, it was, it must be admitted, a most radical measure. Ito meant to increase the number of voters from 450,000 to 2,000,000.[3] The Bill passed the House of Representatives with only a few minor amendments; but before it came up for debate in the House of Peers the Lower House, owing to its rejection of a most important government measure for increasing the Land Tax, was suddenly dissolved. This terminated the session, and killed the Reform Bill.

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[1] *Supra*, p. 174.

[2] Senkioho Kaisei An, 1898.

[3] Ito's speech on the Electoral Reform Bill in the House of Representatives.

Again, in 1899, a Bill, which was not substantially different from Ito's, was brought into the House by Yamagata Cabinet.

Yamagata seems, as far as we are able to judge from his political temperament, to have introduced the Bill more for his own political ends than with any desire to reform the electorate—one of Ito's chief motives. Yamagata, though his name is often associated with that of Ito in the great reforms of the Meiji era, has never been greatly in sympathy with the movement for extending the political power of the people. In fact, we learn from an authentic source that Yamagata at a meeting of the Privy Council on June 24, 1898, advocated the suspension of the Constitution, when Ito (then Minister President), seeing the formation of a union between the two great political parties, the Progressives and the Liberals, imminent, in opposition to the government, urged the necessity of organising a political party to work with the government.[1] But when Yamagata organised a Ministry in 1899, after the downfall of the Okuma-Itagaki Cabinet—a quasi-party government, in the formation of which Ito was the chief mover[2]—he succeeded in obtaining a promise from the Liberal Party (*Kensei-to*) to support the government,[3] on the understanding that the government in return would adopt certain political items in the programme of the party.[4] It is curious to observe that, in spite of vehemently opposing Ito's suggestion of organising a political party for the government, maintaining that the government should stand aloof from political parties, Yamagata, as soon as he came into office, eagerly sought the co-operation of a dominant political party himself. His introduction of the Reform Bill was part of the concession he made to the Liberal Party (*Kensei-to*) to gain its support.[5]

The Bill, after prolonged discussion, was passed by the Lower House, with certain amendments, the most important of which concerned the property qualifications of the elector, the increase in the amount of direct national taxes other than the land tax from three *yen* to five,[1] and also the reduction of the number of seats allotted to municipal electoral districts from ninety-eight to seventy-three.[2] The reason for these amendments is easily understood. The great majority of the House were representatives of the agrarian class. It was natural for them to oppose any scheme for greatly increasing the numerical strength of the representatives of classes other than their own, though they favoured the extension of the franchise.

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[1] Kudo's *Teikoku Gikwai-shiko*, p. 521; *Teikoku Gikwaishi*, vol. i., *Gwaihen*, pp. 666, 667.

[2] *Infra*, p. 236.

[3] The Liberals called themselves *Jiyu-to* before the union with the Progressives, but after the split they adopted the name *Kensei-to*, literally Constitutional Party.

[4] Hakubunkwan, *Gikwaishi*, pp. 114, 121.

[5] *Gikwaishi*, p. 121.

The Bill on reaching the House of Peers was restored almost to its original state.[3] Thereupon a conference of the Delegates from both Houses was called to settle the matter.[4] But owing to the firm, antagonistic, and non-compromising attitude of each party towards the other, the conference broke up, and the Bill was laid on the table *sine die.*[5]

In the following session of the Diet a Bill, which did not differ materially from that of the previous year, was again introduced by the Yamagata Cabinet. This time the Bill passed both Houses, in spite of an important amend-made by the Peers. They raised the property qualification of the elector from five *yen* of direct national taxes to ten *yen,* a suggestion never once made in any previous session. It is almost incomprehensible how the House of Representatives, practically the same House which had so persistently opposed less fundamental amendments made by the Peers to an identical Bill in the preceding year, could accept this important amendment, which was to reduce the number of voters by about one-half. The possible reasons, I think, are three: first, the inability of the majority of the members of the House to realise the effect of the amendment upon the electorate; secondly, the indifference of the people directly benefited by the lower property qualification to the Bill; thirdly, the united support of the Liberal Party (*Kensei-to*).

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[1] The differentiations in the original Bill with regard to the kind of taxes were made with a view to increasing the representatives of the mercantile classes.

[2] The Senkioho Kaisei An of 1899.

[3] Kudo, *Teikoku Gikwaishi,* vol. ii. pp. 120–123.

[4] *Ibid.*

[5] *Ibid.*

The fact that the majority of members in the House of Representatives did not realise the full force of the amendment is shown by the absence of any discussion on the vital point of the effect of a greatly extended franchise upon national politics and the working of the Constitution. It seems to me from the parliamentary records of the debates on the various Electoral Reform Bills introduced into the House, that a large number of the members did not consider the problem of the extension of the franchise any more seriously than does a simple-minded woman demanding the franchise on the principle of "no taxation without representation" considers the problem of woman suffrage. Besides, as it was chiefly the politicians, not the people, who urged an extension of the franchise, the majority in the House could decide the limit of that extension at their own capricious will, without fear of conflict with public opinion. Then, too, the Liberal Party, who had fought bitterly with the Peers over minor points in the previous session, changed its policy, and, accepting the amendment, voted for the Bill *en bloc,* while the Conservative government, which had introduced the Bill at the request of the Liberal Party, made no objection, the extension of the franchise being more limited by the amendment than in the original Bill. So the Bill was passed and became law.

Under this new law the system of large electoral districts, combined with the principle of a single non-transferable vote as well as that of secret voting, was adopted; the property qualifications of candidates were entirely abolished; and an independent electoral district was created for municipalities having a population of over 30,000.[1] Thus Japan has now forty-seven rural electoral districts which coincide with the prefectural administrative districts (*fu* or *ken*), to each of which are allotted from four to twelve seats according to the population;[2] and sixty-one urban electoral districts, to each of which are allotted from one to two seats, except the districts of

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[1] *The Election Law of* 1900, Art. I. XXIX. XXXVI.; Appendix viii. x.

[2] *Ibid.*

Tokyo, Osaka, and Kyoto, which have eleven, six, and three seats respectively.[1]

The new law greatly improved the electoral system by securing a better representation of the different classes of the people, and of the different prefectures, by extending the choice of candidates, and by abolishing open voting, and it works, as a whole, very much better than the old law. Moreover, it increased the number of the voters from 500,000 to 1,700,000.[2] I shall say more about its practical application and the working of the electoral machinery in the chapter on electioneering in Part III.

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[1] Data specially prepared for the author through the courtesy of Mr. Hayashida, Chief Secretary of the House of Representatives.

[2] The first figure is taken from a Table of the Returns of the Sixth General Election (Shugi-in, Sosenkio Ichiranhio), which was the last election (1898) held under the old law, and the last figure from a Table of the Returns of the Tenth General Election, which was held in 1908.

CHAPTER V

THE CIVIL RIGHTS AND LIBERTIES OF JAPANESE SUBJECTS

THE question of individual liberty is ultimately a question of its limit or of the basis upon which its guarantee rests. Before the introduction of Western political philosophy we had no abstract political formulæ like the principle of civil rights and liberties as they are understood in the Western world. There were in the Japanese body politic three distinct elements: the Sovereign who sits on the Imperial Throne, permanent and immutable, and who was to be the prime source of all authority, and who "can do no wrong to his subjects"; the officials of the government, whose power was derivative, not inherent, and whose position was in a sense transitory, but who in most cases exercised absolute authority in the name of the Sovereign; and the people, of whose interests the Sovereign was the guardian and protector, and who were there in theory primarily more for the Sovereign than for themselves. Then the ultimate basis of the rights and liberties of the people was, in name, the Sovereign, but in reality the will of the government officials, who were usually guided by principles of empirical justice and expediency.

Now, what the framers of the Constitution had understood by individual liberty seems to have been the eighteenth-century conception of it. Their notion of individual liberty was a negative conception. They understood individual civil liberty to be immunity from the unjust interference of a government not responsible to the people. They could not comprehend the conception of individual liberty as understood in a country with a government responsible to the people, the authority of which ultimately rests on that self-determining force of the community known as "public opinion." Hence we see that the basis of the rights and liberties of Japanese subjects, which the framers of the Constitution intended to guarantee, rests on the idea of protecting certain individual activities against the evils of a government not responsible to the people.

The principal immunities of Japanese subjects, recognised and guaranteed in the Constitution, may be divided under two headings, *i.e.* Personal Immunities and Immunities in respect of Property.

With regard to personal immunities the main provisions of the Constitution are as follows: Japanese subjects shall have liberty of abode and of changing the same within the limits of law;[1] no Japanese subject shall be arrested, detained, tried or punished, except according to law;[2] no Japanese subject shall be deprived of his right of being tried by the judges determined by law;[3] Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious beliefs;[4] Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, and public meeting and association;[5] and Japanese subjects may present petitions, by observing the proper forms of respect, &c.[6]

As to immunities in respect of property, the Constitution provides that the property rights of every Japanese subject shall remain inviolate, and measures necessary to be taken for the public benefit shall be provided for by law;[7] except in the cases mentioned in the law, the secrecy of the letters of every Japanese subject shall remain inviolate;[8] and except in the cases provided for in the law, the house of no Japanese shall be entered or searched without his consent.[9]

In this chapter I shall not endeavour to analyse each of these provisions separately and determine the content and context of each of these immunities, though some of them are very ambiguous even in the text of the constitutional provisions themselves. But, instead of making a minute analysis of each of these rights and liberties, I propose to consider the limit which is common to them all and the common basis on which their ultimate guarantee rests.

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[1] Art. XXII.

[2] Art. XXIII.

[3] Art. XXIV.

[4] Art. XXVIII.

[5] Art. XXIX.

[6] Art. XXX.

[7] Art. XXVII.

[8] Art. XXVI.

[9] Art. XXV.

Notice the fact that all these provisions, almost without exception, contain some such words as "unless according to the law," or "except in the cases provided by law," or "within the limits of the law." What do these phrases mean? Do they not mean that the content as well as the context of these rights and liberties varies as the law changes, or, in other words, that the ultimate basis of these rights and liberties depends directly not upon the Constitution, but upon statutory law? For instance, the Constitution provides that "no Japanese subject shall be arrested, detained, tried or punished unless according to law." Now suppose that a law is enacted or an Imperial Ordinance is issued to the effect that any person who is suspected by a government official of having openly criticised any action of the government shall be arrested without a warrant and imprisoned for life, neither the arrest of such a person in such a manner nor the enactment of such a law or ordinance can be termed unconstitutional.

As a matter of fact, the promulgation of the Constitution in 1889 did not change in any degree the status of the Japanese people as regards freedom of speech, writing, publication, and public meeting and association, most drastically restricted by the Law of Public Meeting and Association of 1882, the Press Law of 1883, and the Peace Preservation Law of 1887,[1] in spite of the fact that the Constitution provides for certain freedom in these respects.[2] The Peace Preservation Law of 1887, which was one of the most arbitrary and repressive laws ever enacted by the government since the Restoration, remained in force just the same after, as before, the establishment of the constitutional *régime*, until it was finally repealed in 1898 by the assiduous efforts of the House of Representatives after eight years of conflict with the government and the House of Peers.

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[1] *Supra*, pp, 82, 104.

[2] Art. XXIX.

Moreover, in 1894, during the Chino-Japanese War, the government issued an Imperial Ordinance, by which the freedom of Press and publication was considerably restricted.[1] Later in the same year the government repealed it.[2] The question whether this independent action of a government not responsible to the Diet was constitutional or not was never raised. Again, in 1905, during the Russo-Japanese War, the government issued an Imperial Ordinance known as the "Admonition Act" (*Kaigen Rei*), which had the severity of the Peace Preservation Law of 1887, and also a Special Press and Publication Act.[3] But public feeling against these stringent measures was so great that the government was forced to repeal them three months after their promulgation.[4] Then the House of Representatives charged the government with its unconstitutional action on the ground that it did not lay these ordinances before the House in accordance with Art. VIII. section 2 of the Constitution.[5] But this was like a sham fight, and consequently ineffective, the House having no power to accuse the government of putting undue restriction upon the rights and liberties of the people.

The explanation of these facts is simply that the Constitution guarantees the freedom of the subject in these respects only within the limits of the law. The Constitution of Japan provides no absolute guarantee in respect of civil rights and liberties; that is to say, it does not restrict the power of either the government or the Diet to make laws with regard to these privileges, as does the Constitution of the United States. The latter debars Congress from passing a Bill of attainder or any *ex post facto* laws, &c.;[1] and it also prohibits the government from suspending the writ of *habeas corpus*, except in times of war; and issuing a warrant of search or arrest, save upon reasonable cause, &c.[2] But the Japanese government has no restriction with regard to these matters under the Constitution; it can do anything constitutionally to restrict the rights and liberties of the people, provided it first enacts a law to that effect. It must also be borne in mind that the Japanese government is not at present responsible to either the Diet or the people, and that the framers of the Constitution never intended it to be responsible.

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[1] Imp. Ord. No. 134, 1894.

[2] Imp. Ord. No. 167, 1894.

[3] Imp. Ord. Nos. 205 and 206, 1905.

[4] Imp. Ord. No. 242, 1905. *Teikoku Gikwaishi*, vol. iii. pp. 520, 521.

[5] Art. VIII.: "1. The Emperor, in consequence of urgent necessity to maintain public safety or to avert public calamities, can issue, when the Imperial Diet is not sitting, Imperial Ordinances in the place of laws. 2. Such Imperial Ordinances are to be laid before the Imperial Diet at its next session, and when the Diet does not approve the said Ordinances, the government shall declare them to be invalid for the future." Vide *Kwampo*, or Official Gazette, extra No., Feb. 9, 1906, pp. 31–34.

The reason that the framers of the Constitution were satisfied with this state of things is not altogether incomprehensible. Under the feudal *régime* Japan had no civil code defining the rights and liberties of the people, except common law or custom. It seemed, therefore, to the constitutional framers a great advance for the civil rights and liberties of the people to be formulated, recognised, and guaranteed by written law under the Constitution. They thought that the law is a sufficient guarantee of the civil rights and liberties of the people against the irregular tendencies of government officials. Ito says in his *Commentaries:* "Under the military *régime* of the Middle Ages warriors and the common people were placed in different classes. The former not only monopolised the exercise of all governmental powers, but also had absolute control of the civil rights and liberties of the latter. This deprived the people of their full enjoyment of rights and liberties. . . . But by the provisions of the present Chapter of the Constitution (Chap. II., 'Rights and Duties of Subjects'), Japanese subjects can now all equally enjoy their rights and liberties," &c.[3] Thus it seems that the framers of the Constitution either failed to consider, or did not intend to consider, analytically who makes the law; they thought that mere laws sufficiently guarantee the civil rights and liberties of a people against the evils of a government not responsible to them.

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[1] The Constitution of the United States, Art I. sec. 9, par. 3.

[2] *Ibid.*, Art. I. sec. 9, par. 3; Amendments, Art. IV.

[3] *Vide* English ed., p. 36; Japanese ed., p. 33. The second sentence of the quotation reads in the English edition as follows: "The former monopolised the exercise of every public right (*koken*), while the latter were not only excluded

The Emperor is, of course, theoretically the ultimate source of legislation in the State, and the giver as well as the interpreter of the Constitution. But the fact that the Constitution granted by the Emperor was not personally framed by him, and the interpretation of Article LXV. of the Constitution as formally declared by the Emperor in 1892 on an appeal of the House of Peers was in reality a decision of the Privy Council, shows that the Emperor is in actuality neither the maker of the law nor the interpreter of the Constitution. By this, however, I do not mean to say that the Emperor has actually nothing to do with the legislative and administrative matters of State. No body in Japan, I believe, disputes the inestimable value of the *influence* of the Crown not only in all political affairs, but also upon the morality of the people. At certain critical moments in the nation's life this *influence* of the Crown growing into the dominating element in the minds of the Japanese people may become the sole law-making force and the regulating factor of society. But in the ordinary course of things the *influence* of the Crown cannot be said to be the determining force in the making of the laws, though it has undoubtedly considerable weight. Who, then, does possess the real power of legislation under the present Constitution?

The Constitution provides that the Emperor shall exercise the legislative power with the consent of the Imperial Diet.[1] Moreover, it gives the Diet initiative power in all matters of legislation, except in the case of constitutional amendments and the Imperial House Law.[2] But in Chapters II. and III. of this section I have already stated what these provisions do really amount to, and

from the enjoyment of these, but also curtailed in the full enjoyment of their civil rights (*shiken*)." The same passage in the Japanese edition reads: "*Kōsha kōken wo senyūshi* (The former monopolised all governmental powers) *soso shiken wo awasete*" (and also had absolute control of the civil rights of the latter).

[1] Art. V. XXXVII.

[2] Art. XXXVIII.; Supplementary Rules, Art. LXXIII. LXXIV.

showed how the House of Representatives is impotent to pass any measures against the will of the government, while the government within constitutional lines can legislate independently of the Diet.

Therefore, to say that the rights and liberties of Japanese subjects are guaranteed within the limits of the law under the Constitution is to say in a roundabout way that the rights and liberties of the Japanese people are guaranteed according to the already formulated will of the officials of a government not responsible to the people. As a matter of fact, that part of the Constitution which deals with the rights and liberties of the people is a mere ornamental flourish, so long as the government is not responsible to the people. The facts I have already cited with regard to the various Press Laws, Peace Preservation Law, Admonition Act, &c., fully prove this.

The Japanese people are in some respects like the English; they greatly esteem social customs, traditions, and precedents, as well as the knightly sense of justice; and in political matters they are inclined to be "empiricists" rather than doctrinaires or theorists of the French type. Although we had under the old *régime* no civil code or law defining civil rights and liberties, yet the people enjoyed their rights and liberties, and were well protected even by social custom and by that sense of justice inborn in the individual. But we have now a legal system and judicial institutions largely modelled after those of continental Europe; and our judges and lawyers are mostly trained in German judicial methods and imbued with the abstract principles of jurisprudence of the German school. Besides, under our present system, any one who passes the civil examination for judges can become a judge. Hence the benches in our courts are largely occupied at present by young judges who have, besides their book knowledge, little experience of the worldly affairs of human society. These young judges are usually rigid interpreters of legal phrases, and show much severity in their application of legal formulæ and principles, making no allowance for the circumstances of a case. Consequently our civil rights and liberties are, in practice, often narrowed instead of being widened. Under the feudal *régime* we were liable to suffer from the absence of legalism, but to-day under our present judicial and administrative system we are feeling the baneful effects of too much legalism.

PART III

THE WORKING OF THE CONSTITUTION

CHAPTER I

THE CONSTITUTIONAL MONARCHY

IN the preceding Part I have discussed the main parts and principles of the Constitution, chiefly with reference to their theoretical aspects. In this Part I shall endeavour to make an inquiry into the actual working of the Constitution in the light of the data supplied by the twenty years' parliamentary experiment of the nation.

In this chapter I propose to examine the monarchical position and ascertain the extent of the authority actually exercised by the Emperor, apart from his theoretical power and ceremonial authority.

The task, I confess, is extremely difficult owing to certain historic peculiarities of the Japanese nation.

To many Japanese the Emperor is still a "Mysterious and Sacred Being." They still conscientiously feel it to be blasphemous, disloyal, and irreverent to discuss what the Emperor really does or does not do. A friend told me that when he was ten years old, his father, a dignified *samurai* of the old school, took him to Tokyo, and when they were still some way off showed him the Imperial palace. Then he, in childish curiosity, pointed with his finger towards the palace and asked his father if that was really the place where the Emperor lived; and his father, seeing his finger pointing towards the sacred abode of the Emperor, was very indignant, and scolded him for his irreverent action. "I have never forgotten," he said to me, "the impressive manner of my father on that occasion." This is perhaps rather an extreme case to-day. But you may infer from it the kind of training Japanese children undergo, and the general attitude of the people towards the Emperor and the Imperial House.

To many Japanese the name and person of the

Sovereign are sacred and inviolable, as stated in the third Article of the Constitution. In 1893 the Ministry was censured for its carelessness in maintaining the dignity of the Crown.[1] As the result of a collision in the Straits of Iyo on November 30, 1892, between the steamer *Labenna* and a Japanese man-of-war *Chishima*, the government had brought an action in the English Consular Court at Yokohama against the P. & O. Company, and the Company had brought a counter-action against the government in the Shanghai Supreme Court. The case was tried in both courts. When it was known that, in the course of his pleading, counsel for the government (an English lawyer) had used the name of the Emperor in defending his case, the House of Representatives was greatly provoked. It was considered humiliating for the name of the Emperor to be subjected to the judgment of a foreign court.

Again, only last year the Minister President, Marquis Katsura, was actually denounced by one of the most advanced journalists, Mr. Toyabe, a great advocate of responsible government, for carelessly issuing an Imperial Rescript without special announcement, and only through the medium of the *Kwampo* (Official Gazette), which, like the *London Gazette*, is not widely read by the people.[2] It was maintained that it is harmful to the dignity of the Crown for a sacred Imperial Rescript to be issued at a time of no special political importance, and, moreover, Marquis Katsura did not take sufficient care and precaution to preserve its sanctity.[3]

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[1] *Vide* speech of Hatoyama on the Damage Case of Chishima-kan in the House, December 1893; Address of the House to the Emperor, December 19, 1893.

[2] The Imperial Rescript was issued shortly after the formation of the new Ministry, and on the day (October 13, 1908) of a meeting of the Assembly of Prefectural Governors. Its main embodiment was the Emperor's desire for the maintenance of peace, friendship, and goodwill with foreign nations, the development of industries and commerce, and the cultivation of thrifty and diligent habits in the people, &c. Its object seems to have been to instruct the governors in the principles by which the new Ministry would be guided.

[3] *Vide* the *Taiyo* or Sun Journal, November 1908. It is evident that these censures on the part of the House and of the journalist were taken up for political purposes. Nevertheless, it shows the general attitude of the people towards the Imperial Throne.

In the course of an analysis of the position of the English Sovereign, Mr. Sidney Low says: "It is extremely complex, mysterious, artificial; so delicate and so curiously adjusted, that it is scarcely possible to expose it to analysis without a sense of unreality."[1] Notwithstanding the fact that the King of England is a "limited monarch," and that many centuries of parliamentary history in England have produced many varied incidents which more or less definitely indicate the position of the Sovereign, yet great difficulty is experienced, even by such a shrewd political student as Mr. Low, when he endeavours to determine the exact position of the Sovereign within the constitutional organisation of the State. The real difficulty lies in the fact that there is no fixed point for marking off the limit of the actual authority to be exercised by a king inside his theoretical power, and hence the limit of actual authority varies in accordance with the personal *influence* of a king upon his Ministers and the people. It is scarcely possible by any means whatever to minutely analyse the *influence* of a monarch, the extent of which will depend upon the personality of the monarch himself, as well as upon the psychological peculiarity of the people to be affected by a personage bearing the hereditary title *Basileus* or *Basileia.* Perhaps a younger American generation will hardly be able to realise the full significance, apart from its diplomatic aspect, of the extraordinary rejoicing of the Dutch people on the birth of the Princess Juliana. Nevertheless, a student of political psychology would not fail to observe that the hereditary institution known as the "Throne," with the person who sits on it, does mysteriously influence a people accustomed to such an institution and such a personage, producing in them a peculiar sentiment of extraordinary value and force in politics.

The Emperor of Japan is theoretically an "unlimited monarch." Neither custom nor law, written or unwritten, nor the Constitution limits his ultimate sovereign power. Mr. Walter Bagehot tells us that Queen Victoria in the early Sixties wisely attempted to make life Peers, and the

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[1] *The Governance of England*, p. 273.

House of Peers unwisely refused to admit her claim.[1] It is impossible for such a thing to happen in Japan under the present Constitution. Nobody can directly thwart the Emperor's will or claim, be it wise or unwise. He is the Supreme Lord and Absolute Master of the Empire.

But no intelligent person in Japan to-day believes that all the affairs of State are personally conducted by the Sovereign, though it is polite and euphemistic to say that the policy and actions of the government are under the direct supervision of his Imperial Majesty and carried out by his command. Yet no one dares to say how far the Sovereign, apart from his *influence*, personally directs the administration of the State. It seems to me that a knowledge of these facts is extremely important in order to properly direct the future development of our Constitution. And it seems rather strange that no prominent constitutional writer, such as Hozumi, Takada, Kudo, Shimizu, Soejima, Tanaka, &c., have ever, as far as I am aware, proposed to discuss this important problem.

Twenty years of eventful parliamentary history seem to be almost eventless when we review it from the standpoint of the Imperial Throne. The introduction of a representative system of government marked a great change in the social and political life of the people and the administrative and legislative organs of government. But, so far as the Emperor and his position are concerned, no important difference marks the establishment of the constitutional *régime*. Indeed, it is one of the most remarkable features in the working of our constitutional government that, in the midst of continuous jogs and jostles, collisions and deadlocks between the government and the Imperial Diet, we always find perfect concord between the people as well as the government officials and the Sovereign.

Yet a Cabinet Minister in Japan says that he conducts the business of the State by command of the Emperor.

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[1] *The English Constitution*, Amer. ed., p. 126. It seems more accurate to say that in January 1856 Lord Derby's government, rather than the Queen herself, using the prerogative of the Crown, attempted, by the elevation of Sir James Parke to the dignity of Baron Wensleydale, to create life Peers, but it was successfully opposed by the House of Lords. *Vide* Spalding, *The House of Lords*, chap. ix. pp. 97–100.

He often declares in the Diet, as Prince Bülow did in the Reichstag on the 29th of March 1909: "I remain as long as I enjoy the confidence of the Emperor, and as long as my conscience allows."[1] But it ought not to be inferred that the relative position of these two Ministers to their respective Sovereigns is the same. The two cases are essentially and fundamentally different.

We have no such instance in Japan as the selection of Von Caprivi by the Emperor William II. We are told that the young Emperor selected Von Caprivi as Bismarck's successor because he considered him more likely to be subservient to the Throne.[2] In Germany, as far as we understand, the strength of the monarchical position seems largely to depend not upon the Royal House of Prussia, but upon the admirable personality of the Emperor William II. himself. Hence it is, we are told, his ardent desire to identify himself personally and publicly with his government, and to make every act of the administration visibly his own.[3] It is no easy matter, however, to say what truth there is in the statement often circulated about the German Emperor's desire to create a strong "personal rule," and to act the part of King in the drama of the world. But the episodes of the "Kruger Telegram" and the "Letter to Lord Tweedmouth" seem to indicate that the Emperor, in spite of his Chancellor, plays no small part in the politics of the German Empire.

On the other hand, there is not a single instance on record of the Emperor Mutsuhito of Japan taking any State matter into his own hands, independently of the Ministers of State. In Japan the strength of the monarchical position largely depends not upon the personality of the Sovereign, but upon the unique history and tradition of the Imperial Throne. "The Imperial Throne," says Professor Yamaguchi, "is the depository of sovereignty, and the land and the people are subject to it. The line of demarcation between the ruler and the ruled has been very clearly drawn in Japan for ages past. The Sovereign power of the State cannot be dissociated from the Imperial Throne. It lasts for ever along with the Imperial line of succession unbroken for ages eternal."[1] Thus the Emperor feels assured that whoever becomes his Minister, and whatever party comes into power, the sacrosanct Imperial Throne will always be scrupulously upheld. It makes no difference to the Throne whether a Fox or an Addington or a Pitt be Prime Minister. It may, perhaps, be partly due to his own wisdom that the Emperor Mutsuhito has never shown the slightest preference for, or aversion to, any particular Ministry, whether formed by Ito, Yamagata, Okuma, or Itagaki; but it would also seem to be due in no small degree to this conviction of the Sovereign that the safety of the Imperial Throne is absolute.

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[1] Reported in *The Times*, March 31, 1909.

[2] Lowell, *Governments and Parties in Continental Europe*, vol. ii. chap. vii. p. 4.

[3] *Ibid.*, p. 53.

When a new Ministry is to be formed, the Sovereign, according to constitutional theory, may send for any one he pleases, or he may appoint or dismiss any Minister at his pleasure. But in practice it is generally understood that the outgoing Minister President advises the Emperor as to his successor, or else the Privy Council or an informal meeting of the so-called "elder statesmen" decide who shall take the responsibility of a new administration, and advise the Emperor accordingly. In this respect the Sovereign of Japan exercises no more freedom than the King of England.[2] Usually the Emperor sends for the one on whom their choice has fallen, and entrusts him with the formation of a new Ministry.

We have reason to believe that even the appointment or dismissal of a member of the Privy Council—the highest advisory body of the Crown—is made by the Emperor on the advice of his Minister President or of a dominant coterie among the "elder statesmen." In

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[1] "Japan and the Constitutional Emperor," *The Far East*. November 1897.

[2] "When it (a Ministry) tenders its resignation to the Sovereign, the duty of forming a new administration is entrusted by the Sovereign to the leader of the Opposition. According to the theory of the (English) Constitution, the Sovereign may send for any one he pleases, but in practice there is seldom any freedom of choice. The leader (of a party), as a rule, comes gradually to the front by sheer force of ability and strength of will, and it is this acknowledged chief of the party for whom the Sovereign sends and whom he commands to form a new Ministry."—MacDonagh, *The Book of Parliament*, pp. 150, 151.

November 1891 the Emperor, on the advice of Matsukata, the Minister President, dismissed Okuma, because he had co-operated with the political parties in the Diet.[1] It was also on the advice of Matsukata and Yamagata that Ito was appointed President of the Privy Council in July 1903; and again, the same year, the Emperor appointed Matsukata and Yamagata to the Privy Council on the advice of Ito.[2] These are but a few instances among many.

This wise passivity of the Emperor with regard to the appointment of men to the highest offices of trust in the Ministry and the Privy Council indicates his passivity in the management of the administrative affairs of the State. There is no need for the Sovereign of Japan to make any attempt to show his personal greatness and identify himself with the State. It is no exaggeration to say that the Japanese people are as desirous as the Emperor himself to preserve the sacredness of the Throne. It is curious to note that politicians and statesmen in Japan do not hesitate to make every act worthy of praise and admiration his Majesty's rather than their own. General Nogi and Admiral Togo attributed their great achievements, in Port Arthur and in the Straits of Tsushima respectively, entirely to the virtue and wisdom of the Emperor. Therefore the Emperor can confidently leave the management of all State affairs in the hands of his Ministers.

Of course, the Sovereign is consulted on every important matter of State. His Ministers truly desire to submit all measures of special importance to the Emperor for consideration, and his sanction carries great weight. On the other hand, the Emperor is always ready to give his Ministers any assistance whenever it is required. For instance, in 1898, when Counts Okuma and Itagaki attempted to organise a government on party lines, they found it impossible to find civilian Ministers for the Navy and the War Office; then the Emperor appointed

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[1] *Teikoku Gikwaishi*, vol. i. p. 97. The leading statesmen in office maintained the principle that all high officials should be independent of political parties.

[2] *Ibid.*, vol. iii. pp. 187–189.

Viscount (now Marquis) Katsura Minister of War and Marquis Saigo Minister of the Navy, and graciously commanded them to co-operate with and assist Counts Okuma and Itagaki in the new administration.[1]

It is, however, a most remarkable fact that the Emperor, in spite of his possessing a strong personality and great virtue and wisdom, has never shown the slightest desire to exercise "personal rule." Any one reading carefully the debates in the Diet, as reported in the Japanese newspapers or in the parliamentary records, will soon find that the entire responsibility of the administration is left in the hands of the Cabinet Ministers, and that they alone are held responsible for the policy of the State.

In legislative matters the actual authority exercised by the Sovereign seems to be still less, as he does not often come in contact with the legislature.

The only occasion on which the Emperor appears in person in the Diet is on its opening day. The Speech from the Throne is always a purely ceremonial address. The following is a typical example:—

> "Gentlemen of the House of Peers and of the House of Representatives, I hereby perform the Opening Ceremony of the Imperial Diet and declare it opened.[2]
>
> "I am gratified to see that the relations of My Empire with all the treaty Powers continue to be most amicable.
>
> "I command the Ministers of State to prepare an estimate of the expenditure and revenue for the coming year as well as all other necessary measures, and to lay them in due course before you.
>
> "I trust that you will carefully deliberate on each of these measures and faithfully discharge your duty."

According to the Law of the Houses the Emperor nominates the President, or Speaker, and Vice-President of both Houses of the Diet.[1] But that, too, is a ceremonial matter, as the nomination takes place after the President and Vice-President are elected by a majority of votes in their respective Houses.

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[1] *Seitoshi*, p. 118.

[2] Note that the word "Gentlemen" is used for the members of both Houses of the Diet, and not "My Lords and Gentlemen of the House of Representatives." Both Peers and Commoners are equally the subjects of the Emperor, and therefore no distinction is made.

There is a story told with regard to the Imperial authority in the nomination of the President of the House of Representatives which is both interesting and amusing. In 1893 the House of Representatives presented to the Emperor an Address of Censure on its own President.[2] It seems that, at a moment when excitement ran high, the House, forgetting it had the power to remove its own President, implied in its power of electing him (though there is no special proviso to that effect in the Law of the Houses), and hastily inferring from the Imperial nomination that the Emperor possessed the authority to remove him, presented an Address, expecting the Emperor to command the House to remove its own President. To their surprise the Emperor, through the Minister of the Imperial Household Department, asked the House to state the object of the Address, viz. whether it wished him to remove the President or whether it wished to offer an apology for its own error in having elected such a President, and commanded the House to reconsider the whole matter.[3] The House, perceiving its error, speedily made the Emperor an apology for its thoughtless action, and at the same time referred the President to the Committee on Disciplinary Punishment, and he was finally expelled from the House.[4]

In Chapter III. in Part II. I have said that an Address by the Diet to the Crown plays a very important part in legislative matters. In the case of the Lower House it may lead to a dissolution or to the resignation of the Cabinet. According to the theory of the Constitution the Sovereign dissolves the House; but in practice it is an established rule that the Emperor dissolves the House on the advice of the Minister President. In fact, the Minister President takes on himself the full responsibility of dissolution, and usually explains publicly the causes which reluctantly led him to take such a step.

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[1] Art. III.; Imp. Ord. concerning the House of Peers, Art. XI.

[2] *Teikoku Gikwaishi*, vol. i. pp. 268–270. Mr. Hoshi, President of the House, was suspected of undue intimacy with certain members of the Tokyo Stock Exchange.

[3] *Ibid.*, vol. i. p. 271.

[4] *Ibid.*, vol. i. p. 272, 273.

With regard to, not the actual authority, but the influence of the Sovereign upon legislation, we may note a peculiar and interesting feature. Twice a complete deadlock between the Ministry and the Diet has been averted by an Imperial Rescript, once in 1893 and again in 1901. In the former case the House of Representatives, and in the latter the House of Peers curtailed certain items of the Budget to such an extent that it was impossible for the Ministry to accept the amendments. All possible concessions were made by the Ministry, and all efforts on the part of the Ministry to induce the House to modify its amendments were in vain. Then the Emperor issued a Rescript, in which he expressed his desire that the House would give consent to the measures of the government, so that it might not hinder the work of the administration.[1] Instantly the House changed its attitude and agreed to pass the Bill.

But the question arises: How far on these two occasions did the Emperor actually exercise his authority? A close examination reveals the fact that the Emperor acted on the advice of the Minister President. The letter of the then Minister President, Marquis (afterwards Prince) Ito, to Prince Konoye, President of the House of Peers, concerning the Imperial Rescript of March 12, 1901, discloses the fact that the Emperor issued the Rescript on Ito's advice,[2] for Ito declares in his letter that he alone was responsible for the Rescript. Marquis Ito was also Minister President when the Imperial Rescript of February 10, 1893, was issued, by which the House of Representatives was directly induced to vote for the financial measures of the government.

Thus it would seem that the actual authority exercised by the Emperor Mutsuhito in all matters of State, either administrative or legislative, is not greater than that exercised by King Edward VII. The Sovereign of Japan does not direct in person the policy of the State; he entrusts it to his Cabinet Ministers under the leadership of the Minister President. He is not entangled in the practical politics of the country, but is independent of and stands aloof from them. Therefore, in theory as well as in practice, he is not accountable at all for the policy of the State; he does no wrong.[1]

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[1] Imp. Rescript, Feb. 10, 1893, March 12, 1901.

[2] *Vide* Marquis Ito's letter to Prince Konoye, *Teikoku Gikwaishi*, vol. ii. p. 329.

This is no new feature of the Japanese Constitution. Before the growth of feudalism in the twelfth century, the Court nobles, with the assent of the Emperor, directed the policy of the State, and took the full responsibility of public affairs into their own hands. Under the feudal *régime* the Shogun ruled the country, and the Emperor took neither directly nor indirectly any part in the administrative affairs of the State; but that the ultimate sovereignty of the State rests with the Emperor, the lineal descendant of the founder of the Imperial Throne, was never denied; nay, it has always been religiously maintained even by the *shoguns*, who in a sense usurped his authority.

It is not the personality of the Emperor, but the unique history and the tradition of the Imperial Throne, upon which the strength and value of the Japanese monarchy chiefly depend. It is true that the Restoration of 1867, the great virtue and wisdom of the Emperor Mutsuhito, and his long, prosperous reign have greatly strengthened the monarchical position by reviving in the imaginations of the people the history and tradition of the country and of the Imperial Throne. But, if any one were to attach special importance to the personality of the Sovereign, he would prove that he did not understand the real position of the monarchy in Japan. It is the Imperial Throne, not the individual Emperor, which is associated in the minds of the Japanese people with the continuity of the Empire and the unity and solidarity of the nation. Hence the Imperial Throne is the symbol which forms in the minds of the Japanese masses the mental picture of the present as well as of the past existence of the Empire, and the idea of the brotherhood of the people.

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[1] "The (German) Emperor's desire to make himself prominent in public affairs is liable to prove a snare to him; for if he is known to direct in person the policy of the State, and the course of the government becomes at any time unpopular, which is certain to happen sooner or later, he cannot set himself right by dismissing the Ministers, but will be held personally responsible, and must bear the blame."—Lowell, vol. ii. pp. 54, 55.

The Japanese masses categorically accept the theory that all the inhabitants of Japan are the subjects of the Emperor, who sits on the "Imperial Throne of lineal succession." The authority of the Minister President is authority by virtue of the office, which he temporarily holds. However great and wise he may be, he is their fellow-subject; if he goes out of office he has no authority. Any one of great ability and talent may become Prime Minister. But the authority of the Emperor is inherent; his position is permanent and inviolable. No one but a lineal descendant of the Imperial Family can ascend the Throne. Whether He be wise or unwise, He is above all the people; and no one in that respect is equal to Him. The words of the Minister President, if put into the mouth of the Emperor, have directly a greater weight and dignity, and become the supreme authority. If they are really wise, the Minister President increases the confidence of the Emperor in him and gains in popularity; but if not, he must bear all the blame, while the Emperor, who was his mouthpiece, escapes any criticism whatever.

You may say, if you like, that the Japanese lack imagination and are not logical in this matter. But they are human beings. The play called "An Englishman's Home" did more perhaps to stir up the masses of the English people in the matter of national defence than any closely reasoned argument of the propagandists of national defence would have done. Masses are more easily moved by the tangible or symbolic thing than by the intangible. A permanent throne is more tangible to them than a Ministry which may change in a few years. The sight of the "Union Jack" on certain occasions may appeal more strongly to the heart of an Englishman than a patriotic speech about the British Empire. This is a fact about mankind. A close study of Japanese history reveals to us that the use of the Imperial Throne is, indeed, incalculable. The continuous and orderly development of the country and the absence of any violent constitutional revolution are no doubt largely due to the existence of the Imperial Throne. A dreamer of abstract political formulæ may dream, independent of all facts about human beings, and enjoy himself with the ideas of his own creation in a beautiful world of pure logic. But students of political science cannot ignore facts about the nature of human beings.

CHAPTER II

THE STATUS OF THE HOUSE OF PEERS

MR. (now Viscount) KANEKO, one of the framers of the Constitution, tells us that in 1889, soon after the promulgation, but before the Constitution came into operation, he brought a draft copy to England and showed it to Mr. Herbert Spencer; and Spencer, after admiring certain points in the document, especially the preservation of the absolute sovereignty of the Emperor, said to him, "Whether it will work well or not, the responsibility will rest upon the members of the two Houses of the Diet."[1] What Spencer had in his mind when he uttered these words to the representative of a young Oriental nation boldly attempting to introduce a representative system of government, and very anxious to successfully steer the Constitution just adopted, we do not know; nor, on the other hand, what Kaneko understood by this warning of the great philosopher. But if any one analytically examines the Constitution, he will be very much puzzled as to its workability.

As I have said before, the two Houses of the Diet have equal power and are of entirely different composition. "The evil of two co-equal Houses of distinct natures," says Bagehot, "is obvious. Each House can stop all legislation, and yet some legislation may be necessary."[2] If one House of the Diet thwarts the other, the whole machinery of the legislature is at a standstill. And there is no possible constitutional method by which either House can force its decision on the other. The only method to restore the working of the legislative machinery on such occasions is the interference of the government, and a government independent of the Diet. The Cabinet, by using the prerogative of the Crown, creating Peers of a higher rank than that of count and appointing Imperial nominees, can swamp the House of Peers, and thus secure a majority for its own purposes. Or, in the case of the House of Representatives, it can dissolve the House so that an election may return a majority of representatives having different political views. But this is not a sufficient guarantee against all difficulties. For, if the new House is returned with the same members, Ministers can make no progress. Moreover, if the two Houses conjointly oppose the government, there will be no way either for the Ministers or for the Sovereign to conduct the administration of the State constitutionally.

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[1] The *Taiyo*, March 1909, p. 80.

[2] *The English Constitution*, Amer. ed., p. 165.

But what I propose to discuss in this chapter is not the theoretical aspects of the Constitution, but the actual status of the House of Peers as a branch of the legislature as shown by the twenty years of our parliamentary history.

It is well to understand first that the House of Peers was created (probably after the pattern of the *Herrenhaus* of Prussia), and is not a growth like the English House of Lords. Hence it has not so many anomalies as the House of Lords. As far as its form and organisation are concerned, it is more composite and more scientific, and represents better different classes of society. In fact, out of 368 members, 127 are not Peers at all, and, moreover, only about one-fifth of the Peers of Japan have seats in the House.

The Peers who have seats in the House by right of inheritance, as the Peers of England, are the princes of the blood, princes, and marquises.[1] All other Peers, counts, viscounts, and barons, like the Peers of Scotland, elect their representatives septennially, but each order of nobility separately.[2] The number of these representatives is fixed by an Imperial Ordinance so as not to exceed one-fifth of the entire number of the Peers in their respective orders.[3] At present there are 17 counts, 70 viscounts, and

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[1] Imp. Ord. concerning the House of Peers, Art. II. III.

[2] *Ibid.*, Art. IV. sec. 1. *Cf.* Anson, Part I. pp. 215, 216.

[3] *Ibid.*, Art. IV. sec. 2.

105 barons, of whom 40 are Imperial nominees.[1] The remaining members of the House are "Commoners," of whom there are at present 82 Imperial nominees and 45 representatives of the highest tax-payers.

Representatives of the highest tax-payers are elected for a septennial term, one from each prefecture (*fu* or *ken*) by the fifteen male inhabitants thereof, who pay the highest amounts of direct national taxes on land, industry or trade.[2] These representatives are mostly wealthy landowners and rich merchants. They take seats in the House side by side with the highest dignitaries of the land, simply because of their wealth.

The Imperial nominees are the persons specially nominated by the Sovereign as life members, in recognition of their meritorious services to the State or on account of their erudition.[3] The Sovereign nominates them on the advice of the Cabinet Ministers, who have better opportunities of judging who is fit to sit in the House and who is not. Ministers naturally choose those whom they think fit, and at the same time those most subservient to them. It is not likely that they will choose any one who holds different political views, however fit and capable he may be as a legislator. By this I do not mean to say that the Ministers act selfishly, but they are by the forces of circumstances compelled to select the one who serves them best.

It is no wonder that the Imperial nominees are mostly government officials of the second rank, either past or present, diplomats, ex-military and naval officers, professors of the Imperial universities—semi-governmental institutions—and financial agents of the government, &c. It is true that they are men of affairs and of knowledge, and more influential and competent than those representing merely birth or wealth; but it must be admitted that, being officials or *semi*- or *ex*-officials of a bureaucratic government, they cannot help belonging to the same world of official thought and sentiment.

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[1] This year (1909) the House of Peers passed a Bill by which the number of representative barons is to be altered in the next election from 65 to 63.

[2] Imp. Ord. concerning the House of Peers, Art. VI.

[3] *Ibid.*, Art. I. sec. 4.

Their number is elastic. It was increased from 61 in the first session in 1890 to the present number of 122, which is about one-third of the entire members of the House. The law states only that the Imperial nominees plus the representatives of the highest tax-payers shall not exceed the members who have the title of nobility.[1] Within that limit there is no fixed number.

Now as to the disqualifications for membership to the House of Peers. Shinto priests, clergymen, and teachers of any religion are disqualified from becoming candidates for election of the representative Peers as well as of the representatives of the highest tax-payers.[2] So we have no spiritual Peers as in the House of Lords. Other disqualifications are felony, bankruptcy, lunacy, and idiocy, as in the Lower House.[3]

In the rules for the conduct of its members the House of Peers meets with no more leniency than the House of Representatives, both Houses being governed by the same regulations—Law of the Houses. Like the members of the Lower House, the members of the House of Peers cannot absent themselves while the House is sitting, however uninteresting and tiresome the business of the House may seem to them. Their regular attendance is compulsory. Article LXXXII. of the Law of the Houses provides: "No member of either House can absent himself from the meetings of the House or of a Committee without forwarding to the President a notice setting forth proper reasons therefore."[4] The President can grant to a member, when a good reason has been given, leave of absence for a period of less than a week, but he cannot do so for a longer period without the consent of the House.[5] The strict observance of this rule is necessary, in order that the House may always secure the presence of more than one-third of its members, that being the quorum for a committee of the whole House.[6] Representative Peers,

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[1] Imp. Ord. concerning the House of Peers, Art. VII.

[2] Election Law concerning the Counts, Viscounts, and Barons, Art. II.; Election Law concerning the Highest Tax-payers, Art. III.

[3] *Ibid.*, Art. III.; *Ibid.*, Art IV.; Imp. Ord., Art. X.

[4] *Vide* Law of the Houses, Art. XCIX.

[5] *Ibid.*, Art. LXXXI.

[6] *Ibid.*, XXII.

Imperial nominees, and representatives of the highest taxpayers, who all receive a salary of 2000 *yen* for a three months' session, as do the members of the Lower House, are obliged to be regular in attendance.[1]

With such an organisation and *personnel* one would think the House of Peers would be the stronger of the two Houses, like the United States Senate. But the history of the House in the last twenty years does not show that it is any stronger than the House of Representatives, or actually exercises greater power. On the contrary, it is much weaker. Granted that it has never been directly subordinated to the Lower House, its general attitude has been and is passive and reticent. It has never shown as much vigour, vitality, force or strength as the other House. It is true that in 1892 it assumed the power of increasing either taxes or appropriations, in spite of a strong protest from the House of Representatives, and succeeded in getting its claim confirmed by the Imperial interpretation of Article LXV. of the Constitution,[2] and again, in 1901, it caused the Ito Cabinet more embarrassment than the House of Representatives did any other government.[3] But in the first case the House of Peers was vigorously opposing the House of Representatives, because the latter had denied the former power granted to it by the Constitution, or rather, power the framers of the Constitution had intended to give it. In the second case the House of Peers was determined to embarrass Ito's government by curtailing certain appropriations, because he had abandoned the principle of "Ministerial independence," but in the end it accomplished nothing, save delay in legislation.

Beside these two rather unusual cases there has never been any serious collision of the House of Peers with the House of Representatives or with the Cabinet. It is scarcely possible for the House of Peers to fight hard with the Cabinet as long as Ministers are not responsible to the people, that is, to the House of Representatives, for a large number of its influential members have the same mode of thought and the same temperament as the government officials. On the other hand, it is hardly necessary for it to fight the House of Representatives on any great problem, for Ministers themselves always fight directly with the House of Representatives. If a great measure is passed by the House of Representatives and acquiesced in by the government, the House of Peers invariably gives its consent.

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[1] *Vide* Law of the Houses, Art. XIX., revised in 1898.

[2] *Supra*, p. 131, footnote.

[3] *Supra*, pp. 164.

At present the House of Peers seems to be an organ subservient to the government rather than an independent Second Chamber. Often the House renders Ministers valuable assistance in revising and amending the measures passed through the Lower House in such a way as to suit the government, and also in delaying or rejecting unfavourable measures. It should not, however, be understood that the House always acts according to the mandate of the government and takes no initiative. I am only discussing here the general attitude of the House, not its particular acts, which are, I believe, often quite independent of Ministerial influence. Yet, as the majority of its members are impregnated with political thought identical with that of the government officials, it cannot help sympathising with the Ministers, and assisting them whenever required.

That the House of Peers is the less active and less interesting of the two Houses is shown by the fact that its debates as well as its hours of sitting are shorter. Its daily sitting lasts about one hour, whereas that of the House of Representatives lasts at least three or four hours. A newspaper thus describes the difference in the atmosphere of the two Houses: "What a contrast in the scene of the two Houses! The noisy, brisk, heated discussions in the House of Representatives, compared with the calm and dignified, short-cut speeches of the House of Peers. If one crosses the wall separating the two Houses, and goes from one to the other, he will see a contrast as great as that between spring and autumn, or between night and day. It seems as if one who speaks in the House of Peers tries not to speak too much, while those who hear him are afraid to breathe"[1] Debates are the life and essence of a deliberate chamber. The fewer the debates the less interest taken and the less power exercised.

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[1] The *Yorozu Choho*, February 2, 1909.

The fact that the House of Peers has no highly organised political parties also indicates its weakness and want of activity. The House has several factions, such as the *Kenkiukwai*, *Mokuyokwai*, *Doyokwai*, *Chiawakwai*, *Fusokwai*, &c.,[1] but these factions are more engrossed with social functions than with political matters; for the central motive which induces members to join them is personal, a question of rank or title, not of political principles or views. No matter what power the House may have theoretically, in practice it is difficult for it to exercise that power, unless its members take joint action, as there exists in the House of Representatives a co-ordinate or superior body. There is much to be said about the advantages and the disadvantages of highly organised political parties. But without well-organised parties the majority of any large heterogeneous representative body cannot consistently secure united action for definite purposes.

Individually the members of the House of Peers cannot be said to be less competent and influential than the members of the House of Representatives, but that the House of Peers as a body is less active and efficient no one will deny. Put aside the title, official rank, or wealth of a member of the Upper House, and compare him with a member of the Lower House. In the eyes of the people he will sink into oblivion; he may be a greater man than the member of the Lower House, but as a legislator he is of very little use from the standpoint of the people. A

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[1] Factions in the House of Peers:—

Royal Princes	16	
The Kenkiukwai	80	(of which 60 are viscounts).
The Chiawakwai	49	(mostly Imperial nominees).
The Moshiozoku	45	
The Mokuyokwai	53	(of which 48 are barons).
The Doyokwai	41	
The Fusokwai	46	(of which 13 are counts).
The Independents	68	(includes 12 princes and 27 marquises).

This shows that political principles are not the chief basis on which these factions are formed. The names of these factions are not capable of translation into terms of political parties, such as Liberal, Conservative, &c. (Through the courtesy of Mr. Hayashida.)

correspondent of the *Daily Telegraph* in Washington writes: "The Senator in the United States is a big man, and the Congress-man is nothing." This seems strange, as the Congress-man is elected by the direct, and the Senator by the indirect, vote of the people. But it is not strange when we see the extraordinary power and influence exercised by the Senate of the United States. In the Senate small states like Vermont and Oklahoma stand on the same footing as big states like New York or Pennsylvania, while in the Lower House it is impossible even for several small states together to compete with a state like New York or Pennsylvania. In the early Sixties the great question of "state right" was almost exclusively fought out in the Senate, and still to-day the Senate is the centre of national legislation. Therefore the people of each individual state depend upon their Senators more than upon their Congress-men to look after their interests. Not only is the House of Peers in Japan immune from election by the people, either directly or indirectly, but it scarcely takes the side of the people in the ordinary course of legislation. Therefore the people take less interest in it.

I once heard some one say, "One of the reasons why the English House of Lords is so weak is that it contains no representatives of the Labour Party." This curious remark has some truth in it. A representative of the people, who has pledged himself to use all his power and influence in promoting their interests, must incessantly exert his energy in some way, politic or impolitic, and the people who voted for him watch his actions keenly, thinking him the only instrument they have for expressing their wishes to the nation. On the other hand, a member of the House of Lords, representing no one and acting only from a vague sense of duty to the nation, cannot be expected to display much activity. He may become exceedingly active in opposing certain measures, such as a Licensing Bill or an Education Act, but even then he needs a strong moral justification in order to win the support of the people. That is to say, that the strength of a representative legislative body is largely dependent upon the numerical strength of the people who back it up.

The House of Peers has no member who represents the people in the sense of the general public. Therefore it cannot be either very strong or very active.

It is rather fortunate that the House of Peers is not very strong. Theoretically it possesses equal power with the House of Representatives, and is more strongly and advantageously placed as far as its position is concerned. It cannot be dissolved. If it be very strong, it may reduce the House of Representatives to impotency, or cause such great friction as will lead to the suspension of the Constitution. Perhaps this is what Spencer was afraid of, when he warned Kaneko of the responsibility of the members of the two Houses of the Diet.

But one thing the House of Peers may be proud of, and that is, it has no landed interests, no religious controversies, and no conflicts of local or sectional interests.

In a question of land or land tax the House of Lords in England always shows a certain uneasiness, though it is constitutionally denied the power to amend a money Bill.[1] A similar prejudice can be observed in the Herrenhaus of Austria, as well as in the Herrenhaus of Prussia. Moreover, all these Upper Houses are more or less involved in bitter religious controversies. In the Senate of the United States and in the Conseil des États of Switzerland there are sometimes sharp conflicts over the local or sectional interests of the individual states or cantons. But happily the House of Peers in Japan is free from these difficulties.

In the House of Peers, though there are many representatives of the highest tax-payers who are large landowners, they are, as I have said before, the least influential group in the House. Roughly speaking, they are the only class of landowners in the House. Our old aristocrats, or ex-feudal chiefs, unlike the aristocrats of Europe, have no estates. They surrendered all their fiefs to the Emperor—the State—at the time of the Restoration.[2] In fact, the landed interests in Japan are more strongly represented in the Lower than in the Upper House.

It is also interesting to observe that none of our old aristocrats are extremely rich, and they take scarcely any active interest in commercial or industrial undertakings. Among the newly created Peers there are a few who are very wealthy and are engaged in large business enterprises; but their position and influence in the House is still insignificant. Thus the House is not disturbed by the influence of a plutocracy.

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[1] *Supra*, p. 160.

[2] *Supra*, pp. 60–61.

It may perhaps seem singular to Europeans that our Upper House has neither religious controversies nor sharp conflicts over matters of local interest. In the national politics of Japan sectionalism plays scarcely any part either in the Upper or in the Lower House. And in Japan politics and religion are entirely divorced, and are never dealt with simultaneously. The homogeneity of the people, the uniformity of social customs, and the smallness of the national area relieve Japan from all these difficulties.

But the Upper House of Japan is by no means free from all prejudices. Bureaucratic influence, at present the greatest evil in the domestic politics of Japan, dominates the House.

In the government of Japan bureaucracy is, indeed, the most salient feature. The body of civil officials exercises an almost unlimited power; and its members enjoy great distinction and authority; for them, their children, and their kindred are reserved all honours, offices, and emoluments; thus they live not among the people, but apart from them; they do not serve the people, but rule them. In fact, there are still found many officials who tacitly hold the Confucian maxim that "*Tami wo shite yorashimu beshi, shirashimu bekarazu*," or "Let the people depend upon the government, but do not let them know the business of the government." We often hear Japanese officials talking a great deal about *dignity*. They try to rule the people by dignity rather than by reason. As a matter of fact, this year the government was discussing the putting of all civil officials into uniform in order to enable them to maintain their dignity. Dignity is a virtue and a necessary quality for an official to possess. But the "rule of dignity" implies simple submission on the part of the people. It checks the growth of a self-governing spirit in the people, creates an official caste, and is incompatible with a representative system of government.

At the present moment in Japan the power and influence of the bureaucracy are so great that political pessimists look with a gloomy eye on the future development of our representative institutions and prophesy failure for constitutional government in Japan. The House of Peers augments this difficulty instead of mitigating it. The majority in the House, *i.e.* the new Peers and Imperial nominees who owe their rank and position to a government not responsible to the people, naturally sympathise with that form of government, and, consciously or unconsciously, help to increase the strength of the bureaucracy and check the growing power of the House of Representatives. Thus the House of Peers is a great obstacle to the proper development of constitutional government.

The real use of any Second Chamber is to revise, amend, and delay measures hastily passed in a Lower Chamber. But the House of Peers is scarcely of any real use in this respect. It is true that it sometimes performs these functions; but there is no danger at present that the rash impetuosity of any majority in the House of Representatives will prevail. The government, which is independent of the House of Representatives, is quite strong enough alone to prevent any "tyranny of the majority," if such exists. The difficulty in the existing form of government is not the aggressiveness of a majority in the House of Representatives, but the extraordinary power exercised by Ministers irrespective of the wishes of the people, or, in other words, the evils of bureaucracy. To remedy this the House of Peers is absolutely useless. Unless Ministers become responsible to the House of Representatives, the real usefulness of the House of Peers will not be appreciated.

CHAPTER III

THE MINISTRY AND THE POLITICAL PARTIES

OUR constitutional legal formula, which says that the Emperor exercises the legislative power with the consent of the Imperial Diet, does not convey the real fact any more than the legal formula of the English Constitution, which states that every statute is enacted by the King with the advice and assent of Parliament. "New laws," says Mr. Sidney Low, "are made by the Ministry, with the acquiescence of the majority, and the vehement dissent of the minority, in the House of Commons. The Crown has nothing to do with the matter and the House of Lords very little, except that it has a limited power—seldom exercised in cases of real importance—to delay the operation of the proposed measure; the Opposition party protesting against it, energetically but powerlessly at every stage; and the non-official Ministerialists are able to do no more than affect the treatment of details."[1] In Japan, as in England, the Ministry is the real administrative as well as the real law-making organ of the State. But in the two countries the relation of the Ministry to their respective legislative assemblies is entirely different.

In England a Ministry is formed by the party which has a majority in the House of Commons, in accordance with the expressed will of the majority of voters polled in a General Election.[2] Hence the Ministry is able to carry out its policy with the support of a parliamentary majority already pledged at the election to vote for the measures of the government. But the formation of a Ministry in

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[1] *The Governance of England*, p. 60.

[2] Under the existing electoral system it may happen that the majority of all qualified voters in the British Isles cannot secure the majority of seats in the House. But it is generally recognised that a party that has the majority in the House of Commons represents the majority of all voters or of the people.

Japan is independent of any political parties in the House of Representatives; therefore, it is not certain whether or not the Ministry, when formed, can get a working majority in the House of Representatives to support its policy. Yet as long as the Diet exists, it is absolutely necessary for the government to get a majority in the House of Representatives to co-operate with it.

Then the question arises: How does the Ministry manage to secure this majority in the House? Can it be always secured by voluntary agreement? If not, how and by what method? Is it done by coercion, or by persuasion, or by inducement, or by corruption?

It is extremely difficult to describe the exact relation between the government and the political parties in any constitutional country. It is especially so in Japan where the constitutional *régime* is still in its infancy and has not yet passed through a transitory period. Under such circumstances it seems scarcely possible to say what it is without saying what it was in the past. Therefore, I propose to approach this subject historically, *i.e.* to examine the relation of the Ministry and the parties chronologically during Japan's twenty years of parliamentary history.

HISTORICAL DEVELOPMENT

1. Japan's twenty years of parliamentary history is mainly a record of the struggle between the political parties, or factions, in the House of Representatives, on the one hand, and the Cabinet Ministers or official class, on the other: the political parties to get power and the official class to keep it. But this struggle did not begin with the establishment of the Imperial Diet in 1890. Its genesis can be directly traced to the beginning of the campaign for the establishment of a representative system of government.

It has been said that the great work of the Restoration was chiefly accomplished by the prominent retainers of the four great Western *daimios*, Satsuma, Choshiu, Tosa, and Hizen, with the co-operation of their lords, and consequently all important offices in the new administration were filled almost exclusively by the clansmen of these four *daimios*. But the split in the Council of State in 1873 over the Korean question incidently resulted in leaving the administration in the hands of the men of the first two clans, Satsuma and Choshiu, and, at the same time, in the inauguration of an active constitutional movement by those who left office—a movement which led finally to the establishment of the Imperial Diet seventeen years later. Thus these seventeen years prior to the opening of the first Diet were marked by the constant struggles of these two parties: those who were out of office desiring to get into power; those who were in office to keep it for ever. The former organised political parties and threatened the government; the latter formed a bureaucracy and monopolised the administration.

When constitutional government was established, this struggle was accentuated. Up to then the leaders of the bureaucracy, the "clan statesmen," had exercised absolute power, and, suffering no interference, had experienced no difficulty in keeping all political parties in complete subjection; if the parties were very active and troublesome, the clan statesmen in office, by the aid of extraordinary police power and the enactment of drastic laws, got them dissolved and reduced to impotence. But the establishment of the Imperial Diet gave them freedom of speech at least within the door of the legislative chamber, and thus afforded them opportunities to criticise and interfere with the policy and action of the government. Then the clan statesmen invented a doctrine which was known as the *Shozen-shugi*, or the "independence of the government," and so fortified their position. It is interesting to note that this doctrine is essentially identical with that which Edmund Burke describes as a doctrine of the "Cabal" in George III.'s reign: "All political connections are in their nature factious, and as such ought to be dissipated and destroyed; the rule for forming administrations is mere personal ability, rated by the judgment of the Cabal upon it, and taken by draughts from every division and denomination of public men."[1]

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[1] Vide *Thoughts on the Causes of the Present Discontents.*

Ito, then President of the Privy Council, speaking at the meeting of the Presidents of the Prefectural Assemblies, just four days after the promulgation of the Constitution, said: "It cannot be helped if, as the people acquire advanced political ideas, political parties grow, and if there are political parties there will be conflicts in the Diet. But it is absolutely necessary for the government to have no connections whatever with any political party. The sovereign power of the State resides in the Emperor; its exercise, therefore, must be absolutely independent of and impartial to all parties; so, to every subject, there will be 'equal recognition and equal benevolence.'[1] If the Ministers of State who assist the Emperor and conduct the government with all its responsibilities have any relation with political parties, it is impossible for them to maintain this impartiality."[2]

To impart this doctrine the Minister President, Kuroda, simultaneously summoned the Assembly of Prefectural Governors, and gave them strict instructions to be absolutely independent of political parties.[3] Again, in December of the same year, when a new Ministry was formed under the Premiership of Yamagata to succeed the Kuroda Cabinet,[4] instructions were issued to the Prefectural Governors, saying: "The administrative authority is the sovereign power of the Crown; all those who exercise it shall be independent of any political parties, have no connection or alliance with them, and must be strictly impartial in the discharge of their duty."[5]

But those politicians who urged the establishment of a constitutional government and had patiently endured seventeen years of hardship, difficulty, and repression, now hoped to break up the clique of clan statesmen and expel them from office. They hated the clan statesmen as much as the clan statesmen hated the political parties, and the whole of their policy during the first several sessions of the Diet was comprised in attacking and embarrassing the government, while the policy of the government with regard to the political parties was the principle of *divide et impera.*

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[1] This principle of "equal recognition and equal benevolence" is called *Isshidojin-shugi.*

[2] Ito's speech at the meeting of the Presidents of the Prefectural Assemblies, February 15, 1889.

[3] *Gikwai Shiko*, pp. 27, 28.

[4] Kuroda's Cabinet resigned on account of its failure to secure a treaty revision with Western Powers, October 1889. The clique of clansmen was unable for two months to find a successor, for they anticipated great difficulty in facing political parties in the first Diet.

[5] The Cabinet Instruction, December 25, 1889.

At the first General Election, which was held on July 1, 1890, the government, notwithstanding its professed impartiality, strictly enforced the *Seisha-ho,* or Law of Public Meeting and Association, which forebade all communications between political parties and their headquarters and branches, so preventing any organised action; while it encouraged its supporters to contest the seats. The Opposition had to fight against all these odds; nevertheless they won. They obtained about 170 seats against 130 captured by the government supporters.[1] It is interesting to observe that all those who opposed the government were known under the popular name of the People's Party (*Minto*), and those who supported the government as the Official Party (*Rito*). The People's Party included about 130 Constitutional Liberals and 40 Progressives, while the Official Party numbered some 70 Conservatives, 35 ultra-Conservatives, and 25 Independents.[2]

Therefore the government had to face the first session of the Diet, which was opened on the 25th of November 1890,

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[1] The returns of the election as reported in a contemporary newspaper were as follows:—

Chiuritsu (Independents)	69
*Daido-ha (Fusionists)	55
Kaishin-to (Progressives)	46
Aikoku-ha (Old Liberals)	35
*Hoshu-ha (Conservatives)	22
Kiushiu Shimpo-to (Local Progressives)	21
Jiyu-ha (Liberals)	16
*Kwanri (Officials)	18
*Jichi-ha (ultra-Conservatives)	17
Uncertain	2

Vide *Teikoku Gikwaishi,* vol. i. p. 24. Those marked with an asterisk were the chief factions supporting the government.

[2] After the election a reorganisation of the different factions was effected, which resulted in grouping the members as above.

with a minority. Evidently it was no easy matter for Ministers to control a House, a majority of whose members were antagonistic to the government. Interpellation after interpellation, criticism after criticism, attack after attack, were directed against the policy of the government. And neither the Law of Libel nor the Peace Preservation Law nor the Law of Public Meeting and Association, the best weapons for controlling political parties, were of any use to the clan statesmen inside the House. Nay, the House passed a Bill to repeal the Peace Preservation Law, and also one to amend the Law of Public Meeting and Association, both of which were, however, rejected by the House of Peers. That was not all. The government had now to present all revenue and expenditure to the scrutiny of a hostile House in order to get its consent.

In the first place the Finance Committee cut down 8,880,000 *yen* out of a total estimated expenditure of 83,320,000 *yen* and reported the revised Budget to the House. Then a Committee of the whole House, in spite of vehement protests from the government, adopted the revised Budget of the Finance Committee. Thereupon a bitter conflict ensued between the House and the government. The Official Party struggled hopefully to prevent the Bill's further progress, and, at the same time, the government not only threatened the House with dissolution, but resorted, it was rumoured, to the methods of Walpole.[1]

Finally, however, the government agreed to a reduction of 6,310,000 *yen*, instead of 8,880,000 *yen*; a compromise was reached, and the first session came to a peaceful conclusion. A friend, who was a member of the House during this session, tells me that the reason the government agreed to a compromise, instead of forcing a dissolution, was that the clan statesmen and certain members of the House feared, if the House were dissolved, unwelcome strictures would be made by foreign critics.[2] How far this really brought about the peaceful termination of the first session of the Diet is for us a matter of conjecture. But, in studying Japanese politics we cannot ignore the fact that our strong sense of national honour always becomes the dominant political force in the critical moments of our national life.

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[1] Vide *Teikoku Gikwaishi*, vol. i. p. 58. The accuracy of the rumour is a difficult matter to ascertain. However, a Japanese proverb says, "No smoke where is no fire."

[2] Viscount Kaneko, who was then a member of the House of Peers, says: "Then (at the time of the promulgation of the Constitution) certain European

But the enormous reduction in the expenditure was a hard blow for any Administration to meet. And the strain which the Yamagata Ministry sustained during the first session of the Diet seems to have been very great. In fact, soon after the closure of the Diet, Yamagata tendered his resignation, and was succeeded by Count (now Marquis) Matsukata, his Minister of Finance.

The second session of the Diet, which was summoned on the 21st of November 1891, proved no easier to control than the first. The People's Party was more determined than ever to oppose the new government, which was not so conciliatory as the Yamagata Cabinet had been. And lending no ear to the protests or desires of the government, it threw out Bill after Bill, and, cutting down the Budget to a greater extent even than in the previous year,[1] it passed it through the House. But this time the House was dissolved.

Now it was quite clear from the experience of these two sessions that the House could not be controlled by the mere force of official authority or official threats. The Matsukata Ministry, therefore, hoped to secure a majority for the Official Party in the new Diet. With this end in view, by every possible method, legitimate or illegitimate, scrupulous or unscrupulous, it fought the election, which was held in February 1892. The Minister of the Interior,

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people ridiculed the idea of Japan's adopting a constitutional government, saying that a constitutional system of government is not suitable for an Asiatic nation, and is only adapted to the cool-headed people of Northern Europe; even the Southern European nations have failed in establishing constitutional government. How can an Asiatic nation accomplish what Southern European nations have found impossible? So it was thought that, if the Diet was dissolved in its very first session, unpleasant comments would be made by foreign critics. And, in consequence, a compromise was effected between the government and the Diet," &c. Vide *The Taiyo*, March 1, 1909.

[1] The amount of the reduction made by the House was 8,920,000 *yen* out of a total expenditure of 83,500,000 *yen* in the proposed government Budget.

Viscount Shinagawa, secretly instructed the Prefectural Governors to interfere in the election in order to defeat the People's Party; and in favour of the Official Party, the police power and the repressive laws, Yokai Rei and Hoan Jorei, were freely employed by the government.[1] Consequently, in every part of the country there were scenes of great turbulence. The fact that 25 lives were lost and 388 people were wounded during the election speaks for itself.[2]

Notwithstanding this effort of the government, the Official Party was defeated.[3] Besides which, the government paid heavily by forfeiting public confidence. Yet the Matsukata Ministry still remained in office, though the Minister of the Interior and the Minister of Commerce and Agriculture resigned.[4]

When, according to the Constitution, a new session was convened in May 1892,[5] the House immediately proceeded to vote on a motion to present an Address to the Emperor censuring the Cabinet for electoral interference. The motion was defeated by three votes, as certain members were unwilling to cause trouble to the Sacred Personage.[6] Then, instead of the Address, a resolution was passed by 154 votes against 111 to censure the Cabinet.[7] But it was ineffective. Matsukata was still defiant, and declared that Ministers of State cannot be disturbed by a mere resolution of the House.[8]

The reason why Ministers were so firm, in spite of public opinion, is easy to see. The session was short, as it had been carefully limited by the government to forty days. There was no Budget, only an Additional Finance Bill (the Budget is usually the storm centre of the Japanese Diet); for, soon after the dissolution, the government had announced its intention to adopt the Budget of the preceding year.[1] All the other measures proposed by the government, whether passed or not, were of no consequence. The measures initiated by the House, which were unfavourable to the government, were rejected by the Upper House. The House of Representatives attempted to embarrass the Minister over the Additional Finance Bill, but the government was able, through the aid of the House of Peers, to effect a compromise.[2] It should also be noted that, at this juncture, Ministers were accused by certain members of the House of corrupt practices.[3]

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[1] *Teikoku Gikwaishi*, vol. i. pp. 133, 134; *Seitoshi*, pp. 84, 85. Yokai-rei may be translated Admonition Act; Hoan Jorei, Peace Preservation Law.

[2] Vide *Ibid.*, pp. 85, 134, 135.

[3] The People's Party—95 Liberals, 37 Progressives, and 20 members of the *Tomoye* Club; The Official Party, 95 *Chiuo-kosho Kwai*, 53 Independents.—*Gikwaishiko*, pp. 141, 142.

[4] The Minister of the Interior, Viscount Shinagawa, was forced to resign by public pressure, because he had been the chief instigator of the policy of electoral interference. The Minister of Commerce and Agriculture, Mutsu (afterwards Count), resigned, because he disapproved from the beginning of this policy of the Matsukata Cabinet. Vide *Seitoshi*, p. 85.

[5] *Vide* Art. XLV.

[6] *Teikoku Gikwaishi*, vol. i. p. 150.

[7] *Ibid.*, p. 151.

[8] *Vide* Count Matsukata's speech in the House, May 14, 1892.

The Matsukata Ministry made a good fight against the political parties, which opposed the clan statesmen; but public confidence, owing to the interference in the election, was completely shaken; and it was forced to resign about two months after the end of the session.

A new Ministry was formed by Count (afterwards Prince) Ito, which was not responsible for the disgraceful electoral interference of the Matsukata Cabinet, and Ito himself, recognising the misuse of official authority by the previous Ministry, endeavoured to conciliate popular feeling by dismissing those of the Prefectural Governors, who had been most prominent in carrying out the policy of election-interference. But the parties opposed to "clanism" were no more friendly to the Ito Cabinet than they had been to the Matsukata Ministry. Their main object was to abolish "clan government," and to make Ministers responsible to the people, or, in other words, to get into power themselves.[4]

In the fourth session of the Diet, which was convened on November 25, 1892, the conflict between the House

[1] *Vide* Imperial Ordinance, No. 28, March 17, 1892, Art. LXXI.

[2] It was in this session that the House of Peers asserted its power to amend a Finance Bill equally with the House of Representatives.

[3] *Teikoku Gikwaishi*, vol. i. pp. 176, 177.

[4] The question of party government was raised by the Constitutional Liberal Party as early as 1890. See *Seitoshi*, p. 76; Lay, *History of the Rise of Political Parties in Japan*, p. 408.

—the People's Party—and the Ministry culminated as usual in the Budget debates. The House reduced the governmental estimate of 83,759,000 *yen* by 8,718,000 *yen*, and passed the Bill with several amendments. The chief items involved in this reduction were certain administrative expenditure and the naval estimates, which had been greatly increased. Then, according to the Constitution,[1] the House asked the consent of the government to the amendments before sending the Bill to the House of Peers. But the government absolutely refused to assent to any amendment or reduction.[2] Three times the House sought in vain to obtain the consent of the Ministry. Finally, it decided to present an Address to the Emperor; the motion was carried by the overwhelming majority of 181 against 103.

Consequently, an Imperial Rescript was issued, in which the Emperor said that with regard to the administrative expenditure he would command his Ministers to make every possible reform in the administration; and with regard to the increase in the naval expenditure, he would grant 300,000 *yen* annually for six years from the purse of the Imperial House, and also command all civil and military officers (except where a special reason could be shown) to contribute one-tenth of their monthly salary during the same period of time towards building the Fleet, and he also added that he hoped the Ministers of State and the Diet would unite in assisting him to bring forth the good fruit of a constitutional government.[3]

As the result of this Rescript, both the House and the Ministers suddenly changed their attitude, and proceeded most cordially to arrange a compromise. The government agreed to a reduction of 2,626,000 *yen*, instead of the 8,718,000 of the original revision, and also promised to thoroughly reform the administration, and the House accepted the terms. So the controversy ended.

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[1] Article LXVII.: "Those already-fixed expenditures based by the Constitution upon the powers appertaining to the Emperor, and such expenditures as may have arisen by the effect of law, or that appertain to the local obligations of the government, shall be neither rejected nor reduced by the Imperial Diet without the concurrence of the government."

[2] *Vide* speech of the Minister of the Interior, Count (now Marquis) Inouye, in the House of Representatives, Jan. 6, 1893. The Count was then acting for the Minister President, on account of the latter's indisposition.

[3] *Vide* Shochioku, Feb. 10, 1893.

It was, however, evident that this conciliation of the House with the Ministry was not permanent, as it only extended to the Finance Bill; and the impulse which prompted the House to this action was respect for the Sovereign, and not sympathy for the Ministers. Hence a conflict between the two in the next session of the Diet was inevitable, unless Ito could by some means win over the majority in the House.

Ito, therefore, kept his promise, and, in order not to disappoint the members of the House, reformed the administration by dismissing 3272 officials, with a total saving of 1,700,000 *yen* in official salaries and other administrative expenditure.[1] Meanwhile attempts were made to induce the Liberal Party to support the government, but without success.[2] It was evident that, great and courageous as the administrative reform had been, it had not satisfied the ambitious politicians in the House, for enmity to the clan statesmen was the chief cause of their opposition. Moreover, the government overtures to the Liberal Party had provoked not only the Progressive Party, but even the staunchest supporters of clan government.[3]

Then a suspicion arose that improper relations existed between the leader of the Liberal Party, the President of the House, Hoshi Toru, and certain business men over the question of the Stock Exchange. The Minister of Agriculture and Commerce, Goto, and one of the Vice-Ministers, Saito,[4] were involved in this affair. When the fifth session of the Diet was opened on November 25, 1893, the House immediately proceeded to impeach Hoshi, and subsequently expelled him; while at the same time an Address was presented to the Emperor censuring the government on account of the conduct of the Minister of Agriculture and Commerce and of the Vice-Minister.[1] To counteract this, Ito also presented an Address to the Emperor, stating that he deeply regretted, notwithstanding all his diligent and sincere efforts to discharge his duty, that the dissatisfaction on the part of the House of Representatives with the administration was causing anxiety to his Imperial Majesty, and therefore he desired to be relieved of his responsibility, and humbly submitted himself to his Imperial Majesty's decision.[2] Meantime the House was suspended for a week.

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[1] Reform Ordinances, May, August, October, 1893.

[2] *Seitoshi*, p. 97.

[3] *Ibid.*

[4] Each Minister of State in Japan has under him a Vice-Minister, who corresponds more or less to an Under-Secretary.

The Emperor then consulted the Privy Council, which, after deliberation, gave its opinion, stating that there seemed to be some ground for suspicion as to the irregularities of certain officials in the Department of Agriculture and Commerce, but that it was not proper for the House of Representatives to trouble the Emperor without first discussing the whole matter with the government and giving Ministers an opportunity of explaining their position; and, with regard to the responsibility of Ministers of State, that it was not desirable for Ministers who held office by virtue of the confidence of the Sovereign to be removed for so trifling a matter.[3]

Accordingly an Imperial Rescript was issued on December 24, 1893, in reply to the Address of the House. It says, "The appointment or removal of Ministers of State is absolutely at the will of the Sovereign, and no interference whatever is allowed in this matter." Yet, as a matter of fact, both Goto and Saito were ultimately forced to resign.

But there was no end to the attacks upon the Ministry. To embarrass the government was the chief object of the politicians in the House. On the question of treaty revision they at once renewed their fight; and the very delicacy of this question made it a sharp weapon. The attack culminated in a motion to bring before the government a Representation urging the necessity of treaty revision, and also a motion to present an Address to the Emperor regarding the careless use by Counsel for the government of the Emperor's name during a suit against the P. & O. Company.[1] As a consequence, the House was dissolved in December 1893.

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[1] The Address of the House, Dec. 4, 1893.

[2] Ito's Address, Dec. 5, 1893.

[3] The Address to the Privy Council, Dec. 23, 1893.

In the General Election, which took place in March 1894, the government did not directly interfere as it had done in the previous election, though considerable dissatisfaction was caused by the stringent enforcement of the Press Law and of the Law of Public Meeting and Association.[2] The election was, on the whole, conducted in an orderly manner throughout the country, except in a few provinces.[3]

The result of the election was another victory for the People's Party—the aggregate of the parties or factions in opposition to the government. In the first four sessions, as we have already seen, the Liberal Party, having the largest number of seats, was the chief leader of the People's Party, but in the fifth session its negotiation with the government changed the inter-party relations and shifted the centre of political force in the House. Though the Liberal Party escaped the stigma attached to the "Official Party," it was no longer the chief party in the House. The Progressives, and those who had up to then supported the government, formed a coalition, known as the coalition of the *Roppa,* or six factions,[4] and attacked the government on the question of treaty revision. Indeed, the opposition was so formidable that it compelled the Ito Ministry to dissolve the House within a fortnight of its assembling.

Now let us see what was really at the back of this affair. Although Ito still publicly professed to maintain perfect neutrality towards all parties, upholding the principle of "equal recognition and equal benevolence," of which he was the author, it seems that, after the hard struggle with the majority in the House in the fourth session, he had keenly felt the necessity of controlling a dominant party. So he induced, or attempted to induce, the Liberal Party to support the government—which party was then not only numerically the strongest, but had as its leader Hoshi Toru, a most able politician. On the other hand, it seems that the Liberals, who realised that they could accomplish nothing by persistent opposition to successive governments, except the draining of their own pockets through heavy election expenses, welcomed the opportunity of an understanding with the Ministry. This naturally enough roused the Progressive Party as well as those factions who were faithful supporters of the government. Up to then the combined force of the Liberals and Progressives had controlled the House, though their combined action was not the result of voluntary agreement, but simply a matter of chance. In their hearts they had always cherished their old rivalry. Therefore, the Progressives were very uneasy when they saw the Liberals coquetting with the government. It would seem, however, that Ito never dreamt that those factions, known as the Official Party, would turn their back on the government, because of his advances to the Liberals. But, as a matter of fact, they resented Ito's action even more bitterly than the Progressives. They had constantly attacked the People's Party, especially the Liberals, as factious and revolutionary; moreover, they had tasted the sweets, if not of office, at least of association with those in office; and it was evident that the intrusion of the Liberals would deprive them of their monopoly of these sweets. So they formed a coalition with the Progressives to oppose the Liberals and the government.

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[1] *Supra,* p. 192.

[2] *Teikoku Gikwaishi,* vol. i. pp. 324, 325.

[3] The bitterest electoral contest was in the Tochigi Prefecture, where the expelled President of the House, Hoshi, contested a seat with a candidate of the ultra-Conservative, or *Dainihon kiokwai.* In that prefecture alone there was one death and 117 wounded. In the whole country 153 persons were wounded.

[4] *Kaishinto* (Progressives), *Kokumin-kiokwai* (Nationalists), *Domei* Club, *Doshi* Club, *Seimuchiosa-ha, Dainihon-kiokwai.*

Thus in the sixth session, which assembled on May 12, 1894, the Progressives and the former Official Party co-operated together, and continued to fight with the Ministry and with the Liberal Party.[1] "A firm and determined attitude towards foreign nations with regard to treaty revision" and the "establishment of a responsible Cabinet"—a Cabinet responsible to the people—were the main planks in their platform, and the weapons with which they intended to attack the government. The session was practically a repetition of its predecessor. After a continuous attack on the foreign policy of the government, the House decided to present an Address of Impeachment to the Emperor.[1] It was, therefore, dissolved on June 2, 1894.

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[1] Some of the chief factions were the *Kokumin kiokwai* (Nationalists), *Dai nihon kiokwai* (Conservatives), *Kikken kakushinto* (Constitutional Reformists), newly formed by the amalgamation of the *Doshi* Club and *Domei* Club, *Chugoku shimpoto* (Local Progressives), &c.

Then a great outcry against the arbitrary methods of the government was raised. All the political parties, especially those in opposition to the government, began a vigorous agitation for the establishment of a "responsible Cabinet." But the declaration of war with China suddenly checked the activity of all parties in domestic affairs. Enmity and antagonism to the government, and mutual jealousies were all forgotten in the presence of external danger. In fact, the General Election, which took place on December 1, 1894, in contrast to the last two, was marked with extraordinary tranquillity.[2]

Likewise, the seventh session of the Diet, which was convened in October 1894 in the City of Hiroshima, where the Emperor sojourned during the war, offered a great contrast to any of the previous sessions in the marked absence of hostility. Indeed, a Special Finance Bill appropriating 150,000,000 *yen* for war expenditure alone was passed in the House without a single dissentient voter.

In the eighth session of the Diet (December 22, 1894, to March 20, 1895) the political parties continued the same attitude towards the government as in the seventh. Instinctively they agreed not to embarrass the government in the execution of its difficult task, and not to show any discord among themselves, lest it might weaken the national strength. They dropped, therefore, their usual hostile criticism of the Budget and passed it with only the slightest possible modification, in spite of the fact that there was a considerable increase even in the regular administrative expenditure.[1]

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[1] The Address to the Emperor states that a retrospect of the work of the Cabinet Ministers reveals that they have committed many blunders in both domestic and foreign policy, and caused much trouble to his Imperial Majesty, and that the House, being anxious to discharge its duty, is willing to co-operate with them, but their unwillingness always hinders its work, and therefore it cannot put any confidence in them.

[2] Returns of the election: Liberals, 115; Progressives, 47; Constitutional Reformists, 40; Nationalists, 35; Finance Reformists, 4; Local Progressives, 4; Independents, 25; uncertain, 30.

Professor Masterman says, "A time of very great external danger is not a time when internal liberty can grow very fast." [2] So the grave danger that menaced the Japanese Empire checked the rapid development of representative government. For two sessions the battle between the political parties and the oligarchic government was almost completely suspended.

But when the war was over they renewed the fight. Then the *post bellum* policy of the government, the retrocession of the Liaotung peninsula to China, and the affray in the Korean Court at Seoul,[3] put good weapons for attacking the Cabinet into their hands. In fact, a motion for presenting an Address of Impeachment to the Emperor was introduced at the beginning of the ninth session (opened December 25, 1895).[4]

But just previous to this the Ito Ministry had abandoned the principle of "Ministerial independence," and openly formed an alliance with the Liberal Party, numbering then 108 members.[5] In addition, the 34 Nationalists (*Kokumin kiokwai*), originally the chief faction in the Official Party, with their leader Shinagawa, an ex-Minister of the Interior, who had temporarily opposed the government in the fifth and sixth sessions, now returned to their former allegiance. Besides, there were twenty-six staunch supporters of the government known as the "pure Official Party." These three parties combined had a majority in the House and were able to control it, despite the vehement opposition of the People's Party.[1] They rejected by a large majority a motion to impeach the Cabinet and supported the financial measures of the government, which showed an increase in expenditure of 62,000,000 *yen* for the fiscal year.

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[1] *Teikoku Gikwaishi*, vol. i. pp. 415, 416, 417.

[2] J. H. B. Masterman, *The House of Commons*, p. 64.

[3] On October 8, 1895, Queen Bin was assassinated in consequence of the struggle between the Russian and the Japanese party for supremacy. This event led finally to the Russo-Japanese agreement of May 1896.

[4] The Address, January 9, 1897.

[5] *Vide* the Declaration of the Liberal Party concerning the Alliance issued November 22, 1896.

Thus, by an alliance with the Liberals, the Ito Ministry tided over one of the most difficult sessions of the Diet. When, through the resignation of Nomura, it happened that the Ministry of the Interior was rendered vacant, the Liberals brought pressure to bear upon the government to appoint Itagaki, their veteran chief, in recognition of the Party's services, and Itagaki entered the Cabinet on April 14, 1896.[2] It is extremely interesting and instructive to see how the so-called clan statesmen still remained prejudiced against the formation of a political party, for they demanded that Itagaki should sever his connection with Liberals before the appointment was offered to him, and then announced that he had been appointed, because of his age and services as a statesman, and not because he had been the Leader of the Liberal Party.[3]

The appointment of Itagaki was a source of irritation to the Nationalists, who had also faithfully supported the government in the ninth session. The Cabinet, too, experienced great difficulty in finding a successor to Count Mutsu, the Minister for Foreign Affairs, who resigned on account of ill-health, and also to Baron Watanabe, Minister of Finance. The only really suitable person to take charge of Foreign Affairs was Count Okuma, the leader of the Progressives, and for the Ministry of Finance there was no one but Count Matsukata; but Itagaki protested strongly against the appointment of Okuma, while Matsukata declined to accept a portfolio without him.[4] So the Ito Cabinet was forced to resign.

On September 18, 1896, a new Ministry was formed under the Premiership of Matsukata, which was known as the Matsukata-Okuma Cabinet. Okuma's presence in the Cabinet as Minister for Foreign Affairs enabled it to get the full support of the Progressive Party, lately considerably increased in numbers by the union of several factions,[1] and thus it was able to successfully control the tenth session of the Diet (Dec. 22, 1896, to March 24, 1897), in spite of the strong opposition of the Liberals.

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[1] Various parties in opposition were as follows: Progressives (*Kaishinto*), 53; Reformists (*Kakushinto*), 40; *Ote* Club, 22; Local Progressives (*Chugoku Shimpoto*), 5; Finance Reformists (*Zaisei kakushinkwai*), 4; Independents, 8.

[2] Meanwhile Mr. Hoshi, one of the most prominent leaders of the Liberals, was rewarded with the post of Minister Plenipotentiary to the United States.

[3] *Seitoshi*, p. 109.

[4] It must be borne in mind that the reason of Matsukata's declining office was not because he shared the political views of Okuma, but because Ito had accepted

But Matsukata and Okuma had never agreed on fundamental political principles. For, Matsukata, as Minister President, had only a few years before permitted the government officials to interfere in the elections, and had endeavoured to crush all the political parties; he had no sympathy with parties or party government, being a typical clan statesman and a believer in oligarchy; while Okuma was the leader of the Progressive Party, which had urged the establishment of a "responsible Cabinet."[2] It is said that, when the Matsukata-Okuma Cabinet was formed, Okuma agreed to take a portfolio, on the understanding that Cabinet Ministers should be collectively responsible to the Diet, that the administrative as well as the financial system should be thoroughly reformed, and that the rights of the people should be better respected and their wishes receive more attention.[3] But all the other Ministers were men of the same type as Matsukata, and nearer to him than to Okuma in their political ideas; it was not long, therefore, before Okuma realised that it was impossible for him to maintain his political principles,[4] and on November 6, 1897, he tendered his resignation, and this, of course, brought the support of the Progressive Party to an end.

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the protest of Itagaki. Matsukata disliked all political parties; and he wished both Itagaki and Okuma to hold aloof from them.

[1] The factions which united with the Progressives were the *Kakushinto*, *Ote* Club, *Chugoku Shimpoto*, *Saisei kakushin-kwai*, and some Independents. Besides, the *kokumin kiokwai* (Nationalists) supported the government, as its leader Viscount Shinagawa had intimate relation with Count (now Marquis) Matsukata, the Minister President.

[2] *Vide* the Resolution of Progressive Party (*Shimpoto*), March 1, 1896.

[3] *Teikoku Gikwaishi*, vol. i. p. 557. *Vide* the Instruction of the Government to the Prefectural Governors, October 12, 1896.

[4] Lay, *History of the Rise of Political Parties in Japan*, pp. 430, 431 (*Transactions of the Asiatic Society*).

After the resignation of Okuma, the Matsukata Ministry, it is said, tried by the lavish distribution of "gold pills" to induce the Liberals to support it,[1] and many of those who tasted the sweets of official alliance welcomed the opportunity. But, at the general meeting of the party, which was held on December 15, it was decided not to support the Matsukata Ministry.

It was evident that the Cabinet could not hope to control the House when opposed by both the Liberals and the Progressives. The eleventh session of the Diet was summoned on December 21, 1897. On the 25th a resolution of want of confidence in the Cabinet, supported by more than two-thirds of the entire House of Representatives, was brought in and passed by an overwhelming majority. The House was immediately dissolved without transacting any legislative business whatever.

On the same day Matsukata tendered his resignation, and all the other Ministers followed his example, save the Minister for Foreign Affairs, Nishi. This no doubt seems anomalous to any student of constitutional government. Why did the Matsukata Ministry resign? What necessity was there for Ministers to dissolve the House if the Cabinet was to resign before the next General Election? Why did not the Ministry resign and leave the House undissolved? By doing this the country would have been saved a great deal of trouble and unnecessary expense. Why, then, did the Matsukata Ministry not adopt this course? Did it make any difference to the outgoing Ministry, or to any one else, if the House was dissolved before the Cabinet resigned? The Matsukata Ministry must really have lost its reason to commit such a blunder at such a moment; perhaps, its hatred of political parties drove it to so mad an action; or else its real motive was to deliberately wreck the political parties and render them submissive to the government.

This last supposition seems unreasonable, for, in most constitutional systems of government, after the downfall of one Cabinet, power would immediately pass into the hands of the opposition. But it is the peculiarity of

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[1] *Teikoku Gikwaishi*, vol. i. p. 602. *Seitoshi*, p. 114.

"clanism" that nothing of the sort can happen. The fall of a Ministry in Japan meant then simply a change from one set of clan statesmen to another, all friends together and both equally opposed to political parties.

As a matter of fact, a new Ministry was formed again by Ito on January 12, 1898. On the 15th of March the fifth General Election was held.[1] As usual, new parties came into being; old ones disappeared; existing ones were split into factions. It is almost inevitable that political parties, which are unable to exercise real power, or even give any pledges to their constituents, because they cannot keep them, and often forced by one means or another to submit to the dictates of oligarchic statesmen, can neither grow nor live long. At the time of the General Election the Ministry, which had dissolved the House and caused the election, no longer existed. The parties therefore had no target to aim at and no definite issue to fight upon. A contemporary journal tells us that "there was no clear issue between the contending parties, and the contest was simply a struggle in the dark."[2]

Both before and after the election attempts were made by the Liberals to enter into an alliance with the new Ito Ministry.[3] But, as they could not guarantee a majority in the House and made too many demands, the plan fell to the ground.

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[1] Returns of the election given in the *Kenseito-shoshi* :—

Those factions which grouped with the Liberals :—	
Jiyuto (Liberals)	99
Kokumin kiokwai (Nationalists)	32
Old Kodo kwai	4
Independents	31
Old Doshi kwai	4
Those factions which grouped with the Progressives :—	
Shimpoto (Progressives)	105
Old Kodo-ha	7
Tohoku-domei	2
Seiyukwai	7
Independents	9

[2] *The Far East*, vol. iii., No. 29, June 20, 1898, p. 424.

[3] It is interesting to note that the Liberal Party was endeavouring to approach the Ministry, whereas at the beginning of the Constitutional *régime* most parties disliked the idea of being an "Official Party"; and that it was the Government, while still professing the principle of "Ministerial independence," which first endeavoured to approach a party.

Thus, in the twelfth session of the Diet, which was summoned on May 14, 1898,[1] Ito had only a small band of Nationalists to support him; and, in consequence, the most important government Bill of the session, *i.e.* the Increased Land Taxation Bill, was thrown out by 247 to 27. Thereupon the House was dissolved.

After the failure of the Liberal Party to establish an alliance with the government, they formed a coalition with the Progressive Party; and the Increased Land Taxation Bill, which was a very unpopular measure, encouraged their opposition to the government. In addition to this the successive dissolutions of the House had stirred up a common feeling of hostility to the "clan government." Immediately after the dissolution, this common feeling of the Liberal and Progressive Parties, notwithstanding their long rivalry, served to consolidate the bond between them; and they united under the name of the Constitutional Party (*Kenseito*).[2] So formidable was the union that it threatened the Ito Ministry. Indeed, after its completion a meeting of "elder statesmen" (Ito, Yamagata, Saigo, Oyama, Kuroda, and Inouye) was held to discuss what step the government should take with regard to political parties. It was reported that the discussion which took place between Ito and Yamagata was extremely heated. Ito, strongly convinced by recent developments, contended that the government ought to establish a definite connection with the dominant political party, or else to organise a party itself which would adhere to the principles of clan government, and so enable the Ministry to properly conduct the business of the State; on the other hand, Yamagata argued that to make the government dependent upon any political party was a violation of the spirit of the Constitution, and therefore the government must be kept above and independent of all political parties.[1] Thereupon the Ito Ministry immediately resigned.[2]

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[1] The Government limited the session to twenty days.

[2] The House was dissolved on June 10; the formation of the union was completed on the 22nd.

The Programme of the Constitutional Party was as follows:—

1. Loyalty to the Throne and maintenance of the Constitution.
2. Establishment of a party government and the fixing of Ministerial responsibility.
3. Development of local autonomy and restriction of the interference of the central authority.
4. Protection of national rights and prestige and the extension of trade and commerce.
5. Keeping the balance of revenue and expenditure and putting the national finances on a firm basis.
6. Establishing the means to facilitate the inflow of foreign capital and the development of the national resources.
7. Maintaining the Army and Navy in proportion to the national strength.
8. Creating sufficient means of communication and transportation.
9. Improving the educational system and encouraging science and art.

2. No clan statesmen, however, were found willing to succeed Ito; so, on his advice, the Emperor sent for Okuma and Itagaki, the leaders of the newly organised Constitutional Party, to form a new Ministry. It was on June 27th, 1898, two days after Ito's resignation, and only fifteen days after the formation of the Constitutional Party, and seventeen after the dissolution of the House. So unexpected was this event, that both Okuma and Itagaki were completely taken by surprise and hesitated to accept the offer, but, acting on the advice of Ito, they finally consented.

On the 30th of June 1898 a new Ministry was organised, with Okuma as Minister President and Minister for Foreign Affairs, Itagaki as Minister of the Interior, while all the other Ministers, save the Minister of War and the Minister of the Navy, were drawn from the members of the Constitutional Party; that is to say, four portfolios in the new Ministry were allotted to members of the old Progressive Party, and three to members of the old Liberal Party.[3] It was a quasi-party Ministry, being dependent upon the strength of a dominant political party; but it was not a party Ministry in the same sense as the Ministry is in England, though it is often loosely described by Japanese publicists as a party government.[1] No Ministers had seats in the House of Representatives or in the House of Peers, except Marquis Saigo, Minister of the Navy, for there was at the time of their taking office no House of Representatives; it had been dissolved, and no election had yet taken place. The new Ministry was formed simply on the assumed strength of the newly organised Constitutional Party.

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[1] Vide *Teikoku Gikwaishi*, vol. i. pp. 666, 667; *Seitoshi*, p. 117.

[2] *Vide* the Address of Ito to the Emperor, June 25, 1898. This address gives an idea of the bitterness of the conflict between Ito and some of the other members at the meeting of "elder statesmen" held on June 24 and of his displeasure.

[3] Ministers who belonged to the old Progressive Party: Count Okuma, Minister President and Minister for Foreign Affairs; Mr. Ohigashi Gitetsu, Minister of Justice; Mr. Oishi Masami, Minister of Agriculture and Commerce; Mr. Ozaki Yukio, Minister of Education. Ministers who belonged to the old Liberal Party: Count Itagaki, Minister of the Interior; Mr. Matsuda Masahisa, Minister of Finance; Mr. Hayashi Yuzo, Minister of Communications. The Minister of the Interior in Japan is a very important office, because it controls the whole machinery of local government.

Still, this was the first time in the Constitutional history of Japan that a Ministry was formed otherwise than from the members of the coteries of clan statesmen, or, in other words, that members of a political party were allowed to hold a Ministerial portfolio. Remember that in 1891 Okuma was dismissed from the Privy Council simply because he had held a conference with Itagaki, the leader of the Liberal Party; and in 1896 Itagaki was forced to leave the Liberal Party, nominally at least, when, on account of the alliance of the Liberals with the Ito Ministry, he accepted the portfolio of Minister of the Interior; in 1896–97, Okuma was the Minister for Foreign Affairs, but he was not nominally a member of the Progressive Party.

Up to this time the clan statesmen had believed in the doctrine of "Cabal," or "Ministerial independence," vilifying all political parties as merely revolutionary factions, but they had now to witness with chagrin a new Ministry formed almost exclusively from members of one political party. On the other hand, the politicians of "anti-clanism" were overwhelmed with joy at this sudden, this unexpected rise to power.

However, it must be remembered that this sudden rise of party politicians to power was not really a natural evolution, but a mere accident. As we have seen, the formation of the Constitutional Party was due to a momentary impulse of the Liberals and Progressives, and had no permanent character. Historically and personally it was impossible to form a permanent union of these two parties. Two successive dissolutions—one after the withdrawal of the Progressives from the Matsukata Cabinet, and the other following the frustration of the attempt to form an alliance between the Liberals and the Ito Ministry—aroused a common feeling in both parties, which drove them to a temporary union. Matsukata as well as Ito ardently desired the Bill for increased taxation to be passed by the House, so that the government might be able to carry out its *post bellum* policy, but, being prevented by the antagonism of both these parties, hastened to dissolve the House, expecting probably to weaken the strength of their opposition. On contrary, it temporarily intensified the opposition. This misled Ito into over-estimating the real strength of the union. Fortunately or unfortunately, this accident was the cause of a quasi-party government.

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[1] Vide *Teikoku Gikwaishi*, vol. i. pp. 668, 669; *Seitoshi*, pp. 118, 119; Okuma's *Kaikoku Gojiunenshi*, vol. i. pp. 360, 361.

Now let us see what was the fate of the new Ministry.

When constitutional government was first established, the anti-clan politicians thought they could break up the monopoly of the clan statesmen and take part in the government themselves. But this proved a mere dream. They still continued their struggle in the House, but without any positive result. The government was quite as "omnipotent" as they said; in the elections, they suffered from official interference; in the House, from the doctrine of "Ministerial independence," while repeatedly the Diet was suspended or dissolved. Suddenly they found themselves part of this "omnipotent government" with the police, the whole machinery of local government, and every branch of the administration under their control.

It was quite natural that they should first set to work to reform the administration in order that it might suit their own needs.[1] They, therefore, struck off 4522 persons from the administrative official list, thus economising 742,000 *yen* in salaries;[2] and then they filled many important offices, such as Superintendent of Police, Director of the Bureaux, and Councillors in various departments, with party men. But the distribution of the "spoils" was no easy task, as the number of offices was limited, the aspirants many, and competition keen. This revived the long-standing rivalry between the Liberals and the Progressives.

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[1] *Vide* Instruction of the Okuma Cabinet to the Prefectural Governors.

[2] Administrative Reform Ordinance, October 22, 1898.

It has been said before that the union of these two parties was the result of a momentary impulse prompted by the arbitrariness of the clan statesmen. But, with the downfall of the clan statesmen, the first motive of the union disappeared. Both Liberals and Progressives began to assert their respective rights, forgetting that it was their combined strength which had brought them into power. In distributing the "spoils," each party tried to secure the greatest number of important offices for its members, in order to increase its own strength.

The climax of this undignified competition was reached, when the Minister of Education, Mr. Ozaki, resigned.[1] In the course of a lecture before the Imperial Educational Association, Ozaki had said, "Suppose that you dreamed Japan adopted a republican system of government, a Mitsui or Mitsubishi (the Rothschilds of Japan) would immediately become the presidential candidate."[2] His intention was undoubtedly to utter a warning against the growth of the money-getting spirit. But the mere hypothesis of Japan's adopting a republican system of government uttered by a Cabinet Minister furnished the bureaucratic statesmen with good political capital for attacking the new Ministry. They denounced Ozaki's speech as impolitic and blasphemous, and succeeded in arousing public indignation, while within the Cabinet, the Liberal members, especially Itagaki, were pressing for the removal of Ozaki, hoping to get a Liberal member appointed as the Minister of Education.[3] On October 23, 1898, Ozaki tendered his resignation. And directly the Liberals insisted that his successor should be chosen from their ranks. But the Minister President, Okuma, turning a deaf ear to the Liberals' claim, appointed Inukai, a member of the old Progressive Party, as Ozaki's successor. This caused the immediate break-up of the Cabinet.

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[1] Ozaki was a member of the old Progressive Party.

[2] *Teikoku Gikwaishi*, vol. ii. p. 27.

[3] The revival of the rivalry between the Liberals and the Progressives over the distribution of offices was partly due to the influence of Hoshi Toru, one of the most prominent of the Liberal leaders, who, it was said, himself desired to have a seat in the Cabinet. He was in Washington, U.S., as Minister Plenipotentiary, when the new Ministry was formed; he returned to Japan in August. Vide *Seitoshi*, p. 120.

On October 29, three Ministers, Itagaki, Hayashi, and Matsuda, all belonging to the old Liberal Party, resigned. This made it impossible for the other Ministers to remain in office. On the 31st of the same month, Okuma and three other Ministers of the former Progressive Party resigned office, and the Ministers of War and the Navy followed their example.

It was only natural that a Ministry, the formation of which was based on the strength of the Constitutional Party, that is, on the union of the Liberals with the Progressives, should fall with the rupture of that union. Its tenure of office had lasted only four months. It accomplished nothing but a minor reform in the administration and the abolition of a few sinecures. Indeed, it added nothing at all to our parliamentary experience of party government. During the sixth General Election, held on the 10th of August, the Constitutional Party (Liberals and Progressives combined) secured about 260 seats out of the total 300.[1] But the Ministry had already collapsed before the opening of a new session of the Diet.

The failure of this quasi-party Ministry brought the clan statesmen back to power. They were now able to justify their contention that the government was impossible without the "elder statesmen," and that parliamentary politicians were incapable of controlling the business of the State. But though the quasi-party Ministry had added nothing to our parliamentary experience, we must recognise that its formation was a great landmark in the develop-

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[1] Returns of the election :—

The Constitutional Party—	
Progressives	112
Liberals	96
Independents	51
The Opposition—	
Nationalists	20
Independents	21

ment of constitutional government in Japan. For, *its real importance lies in the fact that it had completely disposed of the prejudice that a person directly connected with a political party could not become a Cabinet Minister.*

On the 8th of November a new Ministry was formed under the Premiership of Yamagata. It included no party man; every Minister was a member of one or other of the coteries of the clan statesmen. But immediately after its organisation Yamagata sought an alliance with the former Liberal Party—which, having adopted the name of the once united party, now called itself the Constitutional Party (*Kenseito*);[1] and for the sake of this alliance he consented publicly to repudiate the principle of "Ministerial independence" and to adopt certain measures of the Constitutional Party, such as electoral reform, extension of the franchise, nationalisation of the railways, &c.[2] Of course, Ito largely contributed to the formation of this alliance. Nevertheless it was a great concession for such a Conservative statesman as Yamagata to make.

Yamagata's reasons for conceding so long cherished a principle are, however, easy to understand. A measure for increasing the income tax and the taxes on land and *saké* (liquor) was of paramount importance to any Ministry in order to enable it to carry out its *post bellum* policy. In December of the previous year the Matsukata Ministry had fallen, because it failed to get a majority in the House to pass the Increased Taxation Bills; and the fall of the Ito Ministry six months afterwards was due to the same reason. The Okuma-Itagaki Ministry, though it had an overwhelming majority in the House, was forced to resign before performing this great task. It was evident then that the new Yamagata Ministry could not remain in office unless it found a permanent means of increasing the national revenue, to which an increased land tax was thought necessary. Therefore, Yamagata sought an alliance with the *Kenseito* (Liberals), and made his great concession.

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[1] Soon after the downfall of the Okuma-Itagaki Ministry, the Constitutional Party, the union of the Liberals and Progressives, was dissolved; the Liberals retained the name of the Union (*Kenseito*), while the Progressives called themselves *Kenseihonto* (literally proto-Constitutional Party).

[2] Vide *Teikoku Gikwaishi*, vol. ii. p. 46. The question of nationalisation of the railways was taken up by them as a means of raising the national revenue.

By the aid of this alliance, and with the hearty support of the Nationalists, in addition to the lavish use of "gold pills,"[1] Yamagata was able to manage the thirteenth session of the Diet (December 31, 1898, to March 10, 1899), notwithstanding the vehement opposition of the *Kenseihonto* (Progressives), and to pass several difficult, unpopular measures, such as an Increased Land Tax Bill, a Revised Income Tax Bill, and an Increased Postage Bill. Indeed, this was a great success for the Yamagata Ministry.

But before the next session a quarrel broke out again between the Yamagata Ministry and the *Kenseito* (Liberals). As a reward for the Ministerial success in the thirteenth session, certain of the Liberal leaders expected to be well rewarded with the good things of office. Yamagata naturally disliked the parliamentary politicians, though he had reluctantly allied himself with the Liberals. Perceiving the rise of "office-hunting fever" (*riokan netsu*), as it was called, the Cabinet issued, soon after the closure of the session, some revised civil regulations, by which many offices, hitherto given by appointment, were made attainable only by competitive examinations. There was no doubt this measure was directed against the aspiring politicians. In fact, it considerably provoked the Liberals, even though afterwards a compromise was reached, which prevented the breaking off of the alliance.

During the fourteenth session of the Diet (November 28, 1899, to February 23, 1900), the Yamagata Ministry was still supported by the *Kenseito* (Liberals) and *Teikokuto* (Imperialists);[2] and no very controversial measures were brought in. The *Kenseihonto* (Progressives) introduced a motion for presenting an Address to the Emperor, impeaching the Cabinet on account of the corruption of the previous session,[1] but it was defeated by 164 votes to 121. Then an attempt was made by the party to pass a Bill to prevent corruption, but in vain.

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[1] Vide *Teikoku Gikwaishi*, vol. ii. pp. 98–102; *Seitoshi*, p. 133. Soon after the completion of the negotiations for the alliance, Yamagata invited all members of the *Kenseito*, Nationalists, and members of the House of Peers, to his official residence and entertained them. This was then a new method of winning the goodwill of parliamentary politicians. Vide *Seitoshi*, pp. 126, 127; *Teikoku Gikwaishi*, vol. ii. pp. 46–48.

[2] On the 5th of July 1899 the Nationalists reorganised themselves, and adopted the new name of *Teikokuto*.

It was not long after the closure of the session, however, that the Liberals (*Kenseito*) broke completely with Yamagata. During the last two sessions they had almost blindly supported the government, and they expected a substantial return; but, contrary to their expectations, Yamagata, after passing his great Financial Bill, became estranged from the party, and returned to his former attitude. They, therefore, about the middle of 1900, decided to break off their relations with the Yamagata Ministry.

Meanwhile, Marquis (afterwards Prince) Ito was delivering a series of lectures on the necessity for reconstructing the political parties, and was gaining great popularity.[2] The alert politicians of the *Kenseito* (Liberals) then turned their eyes towards Ito, and invited him to become their leader. To this he agreed. On September 13, 1900, the *Kenseito* was dissolved, in order that a new party under the leadership of Ito could be formed; and, on the 15th, this new party came into being under the title of *Rikken Seiyukwai* (literally Constitutional Political Fraternal Association). Several members of the Ito coterie joined the party.

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[1] *Vide* the Address of Impeachment brought in by Ozaki, December 12, 1899. It discloses certain methods of corruption used by the Yamagata Cabinet in the thirteenth session of the Diet.

[2] In the speech made at Nakatsu, in the Oita Prefecture, on May 17, 1900, Ito said: "In a letter addressed to his constituency, Edmund Burke of England wrote, 'the voters in an electoral district must maintain a similar attitude towards their representative as they do to their shoemaker. It is the business of a shoemaker to make shoes to fit his customers. If the customers meddle with their shoemaker while he is at work, to do this or that, it is impossible for him to make shoes to fit them well. So is a representative in the House; if he is meddled with by his constituents, he cannot do his work properly. Hence, if the voters elect a representative, they, trusting him, must allow him to exercise free will and free action.'" And he added, "In the words of a famous statesman of England, Disraeli, we also find 'the leader of a political party must be faithful in upholding the principles of the party, and, at the same time, *all members of the party must absolutely obey the mandate of the leader.*'"

In the eighteenth century Macaulay wrote to his electors at Leeds: "Just as a physician understands medicine better than an ordinary man, just as a shoemaker makes shoes better than an ordinary man, so a person whose life is passed in transacting affairs of the State becomes a better statesman than an ordinary man. . . . When he (an ordinary man) has called in a physician of whom he has heard a good report, and whose general practice he believes to be judicious, it would be absurd in him to tie down that physician to order particular pills and particular draughts. While he continues to be the customer of a shoemaker, it would be absurd in him to sit by and note every motion of that shoemaker's hand. And in the same manner, it would, I think, be absurd in him to require positive pledges and exact daily and hourly obedience from his representative."

It is interesting to observe that, ten years ago, Ito was the author of the principle of "Ministerial independence," and that now he had accepted the leadership of a political party. But it must be borne in mind that the members of the *Seiyukwai* (old Liberals) did not invite him to become their chief, because their political views agreed with his, but simply because they wanted to keep up some connection with a statesman in power; and they saw that Ito would soon succeed Yamagata, whose downfall was imminent; while, on the other hand, Ito only accepted the party leadership on the understanding that *all members of the party should absolutely submit to him.*[1]

On September 26, 1900, Yamagata resigned. The immediate cause was the formation of the *Seiyukwai.*

After some delay and a good deal of difficulty, a new Ministry was formed by Ito,[2] for his new position as leader of a political party was not regarded favourably by the bureaucratic statesmen holding important offices or with seats in the House of Peers, and their antagonism was no small matter. It is said that before taking office Ito obtained an assurance from Yamagata, through the medium of Inouye, that he would not oppose Ito's Cabinet, if it was once formed.[3] On the other hand, there were many of the *Seiyukwai* (Liberals) who aspired to office, and a great divergency of opinion within the party, which caused considerable trouble to Ito in forming his Cabinet.

In the new Ministry all the Ministers but three were members of the *Seiyukwai*.[1] The *Seiyukwai* had then 156 seats in the House out of the total 300[2]; and there were also some independent supporters of the Ministry. So Ito could control the House of Representatives during the fifteenth session of the Diet (December 25, 1900, to March 24, 1901) without much difficulty.

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[1] *Vide* Prospectus of the *Seiyukwai*, August 25, 1900 (signed by Marquis Ito).

[2] The new Ministry was gazetted on October 19, 1900.

[3] Vide *Teikoku Gikwaishi*, vol. ii. p. 268.

But the Ito Ministry had a serious quarrel with the House of Peers, who mutilated the Budget with the idea of embarrassing the government. Although Ito managed finally to get over this obstacle by means of an Imperial Rescript, yet it greatly diminished the strength of the Ministry. The chief cause of this trouble was that many Conservative politicians and adherents of the bureaucracy in the House of Peers disliked Ito's joining a political party; nay, more, they bitterly resented his action in making Hoshi Toru the Minister of Communications. On both personal and political grounds they hated Hoshi. It must be borne in mind that he had once been expelled from the House of Representatives when he was its President. His hands were by no means clean, nor were his methods always scrupulous. He was a man of strong personality, very ambitious, and he saw that a weak House could be easily trampled upon by the oligarchic statesmen in power, if it always kept itself within the bounds of decorum. So he adopted the methods of a Tammany politician; he was, in one sense, the victim of a defective system of representative government, like Walpole or Lord North in the reign of George III., or like many

Minister President, Marquis Ito	Seiyukwai.
Minister of Finance, Viscount Watanabe	"
Minister of the Interior, Baron Suyematsu	"
Minister of Justice, Baron Kaneko	"
Minister of Education, Mr. Matsuda	"
Minister of Agriculture and Commerce, Mr. Hayashi	"
Minister of Communications, Mr. Hoshi	"
Minister for Foreign Affairs, Mr. Kato	Non-party man.
Minister of War, Viscount Katsura	"
Minister of the Navy, Admiral Yamamoto.	"

[2] Parties in the House :—

Seiyukwai (Liberals)	156
Kenseihonto (Progressives)	103
Teikokuto (Imperialists)	14
Independents	27

of our present-day politicians both here and in America. Nevertheless, his notorious unscrupulousness gave the House of Peers good reason for attacking the Ito Ministry.

Prior to the opening of the fifteenth session of the Diet, the six factions in the House of Peers united and concentrated their attack upon Hoshi. All others inside and outside the House, who opposed the Ministry, joined in the attack, which ended in Hoshi's resignation on the day before the opening of the session. When the session was opened these six factions still continued their attack, and embarrassed the Ministry by delaying all legislation.

This was the external pressure with which the Ito Ministry had to contend, but internally it had even greater trouble. Five Ministers (all prominent members of the *Seiyukwai*), disagreeing with the financial policy of the Minister of Finance, which had Ito's approval, pressed him either to accept their resignations or to change the Minister of Finance. Ito, irritated by the quarrel, tendered his own resignation without consulting the other members of the Cabinet.[1] This procedure hastened the end of the second quasi-party Ministry.

Thus the second attempt to institute party government proved a failure. Ito was one of the most experienced of bureaucrats, with a splendid official record, but he did not excel as a parliamentary statesman; he was a good master of the people and could rule them well from above, but he had no experience in governing as a party politician, and had not the patience to keep all the discordant elements within his own party in harmony. It was too much trouble for a statesman like Ito, always used to arbitrary methods, to spend himself in reconciling the trifling differences of opinion among the politicians of his party. Therefore his attempts at party government failed.

On the receipt of Ito's resignation, the Emperor summoned a conference of the "elder statesmen"—Marquis Yamagata, Marquis Saigo, Count Inouye, and Count

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[1] *Teikoku Gikwaishi*, vol. ii. pp. 371, 372.

Matsukata—to select a successor to Marquis Ito. After several sittings, they came to the conclusion that there was no alternative to an Ito Ministry, for Ito as the leader of the *Seiyukwai* still had a majority in the House, therefore he was invited to reconsider his decision. But the appeal failed. Then, after a month's delay, it was decided that the "elder statesmen" should retire from the active political arena and let the younger men form a new Ministry.[1] So the Emperor sent for Viscount Katsura.

On June 2, 1901, the organisation of the new Ministry was completed under the Premiership of Viscount Katsura. It contained no representative of any political party; it was in a sense a reactionary Ministry; but in one respect it formed a new departure. Hitherto, every Ministry (save the Okuma-Itagaki Ministry) had been formed under the leadership of one of the elder or clan statesmen. But the Katsura Ministry was not.

Katsura could, however, count on the support of the reactionary and Conservative elements, because he belonged to the Yamagata coterie, and had allowed no member of any political party to enter his Cabinet. But, it was a question how he could manage to control the House. One great advantage the Katsura Ministry had was the change in the attitude of the political parties. At this time most parliamentary politicians had become convinced by their own experience that to fight with the "omnipotent government" on the ground of political principle alone was no good, but led rather to the destruction of their own political power. The Progressives (*Kenseihonto*) had scrupulously fought each successive Ministry on pure political principle, but had gained neither strength nor popularity.

The Liberals (*Seiyukwai*) had abandoned fighting purely on principle at an early stage, and devoted themselves, scrupulously or unscrupulously, to keeping up a certain connection with the statesmen in power. To the methods of Walpole or of the American political "Bosses," they raised no objection, and as a result greatly increased their party strength. Convinced by this, the Progressives (*Kenseihonto*), who had up to now persistently opposed the bureaucratic statesmen, sought to approach the Katsura Ministry,[1] while the Liberals (*Seiyukwai*) showed no great hostility, though the Katsura Ministry was really the antithesis of its predecessor—the Ito Ministry—because they desired to keep up, if possible, their connection with the government, irrespective of its creed or principle. Ito, indeed, had consoled the members of the *Seiyukwai*, when he left office, by assuring them that he would not place them in a disadvantageous position, whatever Ministry might be formed.[2]

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[1] The President of the Privy Council, Marquis Saionji, acted as Minister President during the interregnum of one month.

Katsura, while professing to maintain the principle of the "equal recognition and equal benevolence" of all parties, endeavoured to incur the enmity of none. Frequently he invited the members of both Houses to his official residence, and exchanged sentiments of goodwill with them. By these tactics he was able to get through the sixteenth session of the Diet (December 10, 1901, to March 9, 1902) without any serious conflict.

But everybody's goodwill means nobody's goodwill. The moral lesson of Æsop's Fable of the man and his donkey is, that one who tries to please everybody pleases nobody. So the Katsura Ministry was not really liked by any of the parties in the House of Representatives. In the seventeenth session of the Diet, which was begun on December 9, 1902, it was attacked by the combined forces of the *Seiyukwai* and *Kenseihonto* on account of its financial policy;[3] and its most important Bill, an Increased Taxation Bill, was thrown out by an overwhelming majority at the beginning of the session. Consequently the House was dissolved within twenty-eight days of assembling.

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[1] *Teikoku Gikwaishi*, vol. ii. pp. 382, 383, 417.

[2] *Ibid.*, vol. i. p. 379; *Seitoshi*, p. 151.

[3] In August 1902 the seventh General Election was held the first time under the new Electoral Law.

Returns of the election:—

Seiyukwai (Liberals)	190
Kenseihonto (Progressives)	105
Teikokuto (Imperialists)	18
Sanshi Club (Seceders from the Progressives)	7
Chiuritsu (Independents)	56

One of the most interesting points in this conflict between the Ministry and the political parties is that Ito, the leader of the *Seiyukwai*, actually took the leading part against the Ministry.[1] Prior to this session, Ito had conferred with Yamagata and also with the Minister President, Katsura, and other Ministers of the Cabinet with regard to the financial policy of the government.[2] But his opinion and his advice were unheeded. Therefore he called on Okuma, the leader of the *Kenseihonto* (Progressives), and this led to an exchange of views on the financial policy of the State.[3] And the two parties, the *Seiyukwai* and the *Kenseihonto*, joined together once more to oppose the Katsura Ministry. This led finally to a dissolution of the House.

Now let us see why Ito took this step. What was his real object? Did he think that the combined opposition of the two largest parties would make his political views prevail? If so, how? By forcing the Ministry to concede to his demands or by driving it to resign? No Ministry had ever yet fully conceded the demands of any political party or parties in the House of Representatives, or had resigned, before it dissolved the House. A Ministry independent of political parties is always ready to come to some compromise with a majority in the House in order to get its measures passed, but if this is found difficult, it first resorts to all possible methods of inducement and corruption, and then finally to suspension and dissolution. Ito should have known this, for he himself had practised some at least of these methods of controlling the House when he was in office. Did he not realise that the combined attack of the Liberals and Progressives under his leadership would inevitably lead to a dissolution of the House? Of course, he was then the most influential of statesmen, possessing the full confidence of the Emperor. In addition, he was not only the leader of the *Seiyukwai* but practically controlled the *Kenseihonto* as well, as the two parties were working in harmony. So, perhaps he thought when he took so determined an attitude that the Katsura Ministry would go out of office and surrender to him the Seals of State.[1] If he really thought this, he was mistaken. Katsura did not resign, but dissolved the House. Nor was that all. In the eighteenth session of the Diet (May 12 to June 5, 1903), Ito was compelled to accept a compromise with regard to the financial policy of the State, which did not please his party,[2] notwithstanding the fact that in the General Election of March 8, 1903, his party (*Seiyukwai*) was returned with a majority to the House.[3] As a matter of fact, the whole affair really meant the defeat of Ito and his party by the Katsura Ministry.

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[1] Ito had recently returned from England, where he had represented his country at the Coronation of King Edward VII. He did not take an active part in politics during the sixteenth session of the Diet.

[2] *Teikoku Gikwaishi*, vol iii. pp. 19–24.

[3] On December 4, 1902, the day after he had conferred with Ito, Okuma, at the General Meeting of the *Kenseihonto*, said: "I consider it a marvellous change for Marquis Ito, a veteran of the Meiji (Restoration), and the statesman most in favour at Court, after thirty-five years of political life, because his opinions differ from those of the Cabinet, now appeals to public opinion, and takes the side of the people. Up to now some people have denounced all those opposed to the policy of the government as enemies of the State, nay, even as traitors against the government, which has the confidence of the Emperor. What will they say to Marquis Ito? Will they venture to say that he is a traitor because he opposes the policy of the government?"

It is extremely interesting, as well as instructive, to note that this defeat of Ito clearly shows one thing. Under the existing constitutional system of government in Japan, *whoever may oppose the government, whatever*

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[1] It seems that, as Okuma asserted, Ito's political ideas had undergone certain changes in the period between 1901–3. I wonder whether his observations of English parliamentary politics during this period had influenced him.

[2] In the General Meeting of the *Seiyukwai*, held on May 7, 1903, Ito said: "After the dissolution of the House, I reconsidered my view (of the financial policy of the State), and discovered that I had make a mistake. Besides, it is a great misfortune for the State if there is no reconciliation between the House and the Government. . . . It seems that there are some members who maintain that they do not mind facing two or three successive dissolutions. But as long as you bear with me as leader of the party, I cannot tolerate such misfortunes, and, therefore, I must endeavour to avoid them, even if this course does not meet with the approval of all of you." It seems that there existed already, before this meeting, a definite understanding between Ito and Katsura with regard to the terms of the compromise.

[3] Returns of the election:—

Seiyukwai (Liberals)	193
Kenseihonto (Progressives)	91
Chiuritsu (Independents)	74
Teikokuto (Imperialists)	18

political opinions he may hold, however great a majority he may have, no leader can do anything against the Ministry while that Ministry is independent of and not responsible to the majority in the House, or, in other words, to the people.

On 12th July Ito suddenly left the *Seiyukwai*, and returned to office as President of the Privy Council. It is difficult to say whether his failure as the leader of a political party was the cause of this abrupt end to his parliamentary career, or whether there were other reasons. Some said that it was the result of a plot of the Katsura Ministry to expel him from parliamentary politics, while others maintained that Ito himself sought to return to office in order to get rid of the *Seiyukwai*.[1] At any rate, it is a fact that he was beaten by the Katsura Ministry during two sessions of the Diet, though he controlled a majority in the House; and it is also a fact that he was not a successful leader of the *Seiyukwai*. In the interval between the eighteenth and nineteenth sessions of the Diet many left the *Seiyukwai*, dissatisfied with Ito's dictatorial control, and also with the concession made in the eighteenth session. In fact, the party was reduced from 193 to 128, so that it no longer controlled a majority in the House.

Just before the nineteenth session, which was summoned on 10th December 1903, it was practically agreed between the leaders of the Liberals and Progressives to unite in an attack upon the Ministry. But the session was dissolved the day after its opening; for the President of the House had indiscreetly included words which amounted to an impeachment of the Cabinet in the reply to the Speech from the Throne—an Address which ought to be purely ceremonial. The result was an immediate dissolution.

Though the action of the President was generally condemned, the motive of this attack on the Ministry was strongly approved. It was, therefore, expected that the Ministry would be attacked again by the combined force of the two parties in the next session. But on 10th February war was declared with Russia. This brought complete peace to the Katsura Ministry in domestic politics. In the next two sessions, which were held during the war,[1] the Ministry had no great difficulty in getting its important Bills passed through the Diet.

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[1] Hakubunkwan, *Gikwashi*, p. 186.

Towards the end of 1905 peace was restored by the Treaty of Portsmouth. Thereupon domestic politics resumed their natural course. On account of the financial policy of the government, the terms of the Peace Treaty, and the stringent restrictions on freedom of speech and the Press at the time of the war, considerable feeling and antagonism had been roused against the Katsura Ministry. But Katsura wisely escaped a bitter attack by resigning office immediately after the opening of the twenty-second session of the Diet (December 28, 1905, to March 28, 1906).

On 6th January 1906 a new Ministry was formed under the Premiership of Marquis Saionji, Ito's successor as the leader of the *Seiyukwai.* It was said that Katsura surrendered the State Seal to Saionji on the understanding that he would pursue the policy of the Katsura Ministry and not interfere with the officials who had served under the previous government.[2] As a matter of fact, Saionji did faithfully defend the policy of the Katsura Ministry, and in the main followed in its footsteps.[3] Moreover, in spite of being the leader of the *Seiyukwai,* he had no intention of making the Ministry a party one. Still, the strength of the Saionji Ministry depended on the *Seiyukwai.* And there can be no doubt that it was the faithful support of that party which enabled the Saionji Ministry to face the three sessions of the Diet, which took place between January 1906 and July 1908.

Then Saionji resigned, making way for a second Katsura Ministry. It is not easy to understand why Saionji resigned. At the General Election, which was held about two months prior to his resignation, the

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[1] The twentieth session was held from March 18 to 30, 1904; the twenty-first session from Nov. 28, 1904, to Feb. 28, 1905.

[2] *Gikwai Shiko*, pp. 982, 983.

[3] *The Taiyo*, August 1908, pp. 18–20, 27, 28.

Seiyukwai came back with a majority to the House.[1] Yet Saionji suddenly left office. The members of the *Seiyukwai* who had faithfully supported him for two years, were not even consulted. To the public he gave ill-health as the reason for his resignation. This is one of the anomalies of Japanese domestic politics.

More strange than this even was the fact that the *Seiyukwai*, which had always supported the Saionji Ministry, because Saionji was its leader, was found willing to support the new Katsura Ministry during the twenty-fifth session of the Diet (December 22, 1908, to March 25, 1909). It was said that there was a secret understanding between Saionji and Katsura, that when the former surrendered office he would give the latter full support. Whether this rumour was true or not is for us largely a matter of conjecture. But we may draw some inference from what Marquis Saionji said at the General Meeting of the *Seiyukwai*, on January 21, 1909: "When I tendered my resignation (last July), I recommended Marquis Katsura as my successor, believing that he was the fittest person to take office. It is, of course, the prerogative of the Emperor to appoint the Ministers of State. And he has appointed the Marquis. I, therefore, wish to aid him, as far as possible, and without prejudice, in the discharge of his duty; and I hope that you will take the same attitude towards his Cabinet."[2] The *Seiyukwai* in consequence supported the Katsura Ministry without demur.

This event forces us to consider why the *Seiyukwai* allowed itself to become a mere puppet in the hands of its leader, Marquis Saionji, and even in those of Marquis Katsura, who had no connection with it. The reason, I believe,

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[1] Returns of the election:—

Seiyukwai (Liberals)	185
Simpoto (Kenseihonto) (Progressives)	75
Daido-ha (Conservatives)	29
Yukokwai (Radicals)	34
Mushozoku (Independents)	56

The *Yukokwai* is not a party of Socialists or of members of labour organisations, though it is translated Radicals. It consists mainly of men of independent mind, who are mostly free from corruption or any other form of inducement.

[2] Hakubunkwan, *Shinhorei*, May 15, 1909, Appendix, p. 12.

is not difficult to see. The *Seiyukwai* had a majority in the House. Suppose that it opposed the Katsura Ministry, what could it do? It is pretty certain that it could not make its political views, even if it had any, prevail; but it might have caused a dissolution. A dissolution means a drain on the pocket of each individual member. Besides, the *Seiyukwai* was not sure of again obtaining a majority. In that case the Katsura Ministry could solicit the support of the other parties. Moreover, the Ministry would always employ the various methods of inducement and corruption which enable a government to control the House, in case there is no one party possessing a majority. On the other hand, the *Seiyukwai* by giving a lukewarm support to the government could drive a good bargain with it. In addition there was the hope that, in the event of Katsura resigning, he would hand back the power to Marquis Saionji.

This is a brief historical sketch of the various Ministries and the different political parties, which have existed during the twenty years of constitutional government in Japan. It shows that new laws are in reality made by the Ministry which is independent of and not responsible to the Diet—the people—with the consent of the majority in the House of the Diet, and the vehement dissent of the minority.[1] That consent of the majority is sometimes voluntary, but in most cases forced; that is to say, it is consent obtained by threats of suspension or dissolution, or by the use of various methods of inducement and corruption.

No political party in Japan, therefore, has a specific concrete political programme. It is useless for it to draw up one, for it could not put it into practice, even if it had a majority in the House. In the same way the Ministry never puts its own political programme definitely before the public. For it is also uncertain whether the Ministry can carry out its measures to the extent it desires, as it largely depends upon its opportunity of controlling the majority in the House. Generally the political parties oppose the Ministry, unless there is an understanding between them, not with the hope of getting their own policy carried through, but simply to make the best bargain they can by embarrassing the government.

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[1] Ordinances, even those which concern individual rights and liberties, are exclusively controlled by the government without consent of the Diet. The Constitution, Art. VIII. IX.; *supra*, Part II. chapter v.

And, as there is nothing to encourage political parties to come to clear and definite issues, their formation is chiefly based on personal sentiments and impulses rather than on principle. Therefore it is neither steady nor permanent. The disruption, dissolution, organisation and reorganisation of political parties in Japan is so constant that almost every session of the Diet witnesses the appearance of new parties and the disappearance of old ones. This state of things shows the unhealthy condition of domestic politics in Japan. It behoves the people of Japan to consider seriously, whether it is due chiefly to the low state of civic morality of the people, or to certain defects in the working of the existing Constitution.

A Recent Occurrence

The event which I have in mind is that which was involved in the case of the *Nitto-jiken*, or Sugar Scandals. I borrow the account, though it is rather long, from a detailed report sent by *The Times* correspondent from Tokyo, because it throws light upon several points in the domestic politics of Japan.

"The Tokio law courts have just delivered judgment in a case which has attracted unprecedented interest in Japan. Three years ago, that is to say, in the immediate sequel of the war with Russia, when a commercial boom was beginning to assert itself in Japan, several sugar refineries in that country combined to form the 'Great Japan Sugar Company' with a capital of £1,200,000 and a branch in Formosa. Up to that time the Japanese market had been mainly supplied from Hong-Kong, where two refineries existed under the auspices of leading British firms. It was confidently believed, however, that this competition from abroad would ultimately be broken down, and the Great Japan Company received a hearty welcome from the public. Its early record verified that forecast, for it paid dividends of 64 per cent., 20 per cent., 17½ per cent., and

15 per cent. (twice) in successive half-years between July 1, 1906, and December 31, 1908. Nevertheless, handsome as these returns were, their steadily declining dimensions and the gradual spread of rumours—never convincingly refuted—to the effect that the two last of the above dividends had been defrayed with money obtained by defrauding the Customs, caused such a loss of confidence that from the close of 1907 to the autumn of 1908 the Company's £5 shares were never quoted higher than £7, 10s.

"Then a catastrophe occurred. A bank which had granted large accommodation to the Company fell into difficulties, and the measures taken by its creditors led to startling disclosures. The Company was virtually bankrupt. It owed some £400,000 to the Customs; its other debts amounted to nearly the whole of its capital, and some of its directors were found to have been speculating largely with its shares, crediting to themselves the results of profitable transactions and debiting the unprofitable to the Company. These revelations produced something like a panic. They suggested that other nominally flourishing companies also might be whited sepulchres, and that the whole system of auditing accounts in Japan stood in need of drastic reform. The share market, which had just begun to recover from the panic following the *post bellum* boom, fell again into a slough of despondency, and the air began to be filled with disquieting rumours.

"There was, moreover, a far more flagrant feature. It transpired that the dishonest directors had been tampering with members of the House of Representatives; and one morning the citizens of Tokio learned that several prominent politicians had been apprehended and their houses subjected to a rigorous search by the police. Each succeeding day saw the additions to the ranks of these subjects, until finally no fewer than twenty-four members and ex-members of the Lower House of the Diet were in custody. On two occasions the directors of the Company had resorted to bribes. The first was in the twenty-third session (1908–9) of the Diet in connection with a government Bill for encouraging the export of sugar by granting a rebate of the consumption tax. This measure was passed by a large majority and would have probably been adopted on its merits without recourse to corruption. The second was in the twenty-fourth session (1907–8). At that time ruin and exposure stared the directors in the face, and they conceived the desperate expedient *of inducing the government to create a State monopoly of sugar, as had been already done in the case of saké, salt, tobacco, and camphor.* It does not appear that the authorities were duly approached in connection with this scheme.[1] The directors confined themselves to purchasing support in the Lower House. In every instance their corrupt overtures seem to have been accepted, but, although something like £12,000—a very large sum in Japan—was paid out, the proposal encountered such strong official opposition that it never reached the stage of parliamentary discussion. There was no exposure, however, until the failure of the Fujimoto Bank in the autumn of 1908 brought the Company's affairs under the searchlight.

"Even then several months elapsed before the police stretched out their hands—so many months that impatient murmurs began to be audible in many quarters. But the delay proved to have been devoted to collecting evidence. In April the arrests began, and, following each other in quick succession, they ultimately numbered twenty-four members or ex-members of the Diet, as well as five directors of the Company. Every political party in the State was involved. It cannot be said, however, that the incriminated men were in any case political leaders of the first rank. They belonged rather to the category of sectional heads, each with a following sufficient to make their combination formidable. Among them, however, was a man who had been at one time President of the American Board Mission's flourishing college in Kioto, and whose name, up to the moment of his arrest, had stood for everything upright and honourable. This man, together with three others, made frank and full confession of their guilt, and it was expected that their penalty would be a short term of deferred imprisonment—in other words, that they would be sentenced but not actually punished.

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[1] There are several indications which show that the authorities were approached indirectly through certain members of the *Seiyukwai.* Vide *The Yorozu Choho,* April 15–30, 1909.

"The judges, however, took a different view. Out of the twenty-four accused they acquitted one; condemned the rest to major imprisonment for terms varying from three months to ten, and deferred the execution of the sentence in seven cases, but extended that indulgence to only one of the three men with whom the public had specially sympathised. All were ordered to refund the money received by them, the amounts varying from £40 to £2000. As for the directors, their trial is not yet concluded. It was very noticeable that a radically divergent view was taken by the newspaper Press and by the counsel retained for the defence. More than seventy barristers pleaded for the accused, and almost without exception their appeals were founded on the proportionately great disgrace and pain suffered by persons enjoying high social positions when the criminal laws were enforced against them. The newspapers, on the contrary, contended that such persons should be punished with additional severity, since their crime was aggravated by indifference to their duty as moral examples. Fortunately, the Court took the latter view.

"*It goes without saying that this incident has given a severe shock to public respect for the Lower House of the Diet, and to public confidence in the integrity of Japanese business enterprise.* The latter feeling is likely to be short-lived, especially as the probable outcome of the affair will be the organisation of a system of chartered accountants. But *the reputation of the House of Representatives is effectually smirched, and there will certainly accrue a marked increase of credit to Conservative politicians who oppose party Cabinets, and to the House of Peers as an incorruptible guardian of national interests.* From no point of view does any material extenuation of the disgrace present itself, except, perhaps, from the historical fact that victory in war generally exercises a demoralising influence. *Even that excuse, however, requires us to assume that these evil practices were limited to post bellum days, an inference not supported by the evident facility with which the various transactions were consummated, or by the recollection that talk of parliamentary* *dishonesty has been heard in Japan for the past fifteen years. Discovery might probably have come long ago had circumstances conspired to facilitate it."* [1]

It is true that this event furnishes good political capital for Conservative, or, more accurately, bureaucratic politicians and oligarchic statesmen *for smirching the reputation of parliamentary politicians,* and making the House of Representatives, which is already too weak not to be corruptible, weaker and more easily manageable. But who or what is chiefly accountable for such corruption? Is it not more likely that a House which is the puppet of the oligarchic statesmen in power will offer less resistance to corruption than that which can make the view of its majority prevail? Does a weak or strong House offer more inducement to strong, capable, and incorruptible men? Any one who thinks that a weak House is less corruptible is advised to study the political conditions as well as the working of the Constitution in the United States and also the parliamentary history of England in the eighteenth century. Dr. J. Allen Smith said in his book, *The Spirit of American Government,* that the real difficulty of American government is not too much democracy, as is often roughly believed, but too little democracy. In the eighteenth century the House of Commons in England had not yet attained the dignity it possesses to-day. Since the Revolution of 1688 its power and activity had been considerably increased, but no means had then been devised to ensure its responsibility to the people; it had been beyond the reach of public opinion, and its debates and divisions had been frequently conducted with closed doors.[2] Then the supreme authority of the State had lain in the hands of the members of the Cabal, who were not responsible to the House of Commons. It was under this system of government that Lord Bute, Sir Robert Walpole, Mr. Henry Pelham, Mr. Henry Fox, Lord North, &c., constantly resorted to the use of "gold pills" for obtaining a necessary majority in the House.[3]

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[1] *The Times,* July 27, 1909. The italics are mine and not the author's.

[2] Erskine May, *Constitutional History of England,* vol. i. p. 377.

[3] *Ibid.,* vol. i. chap. vi.

The Times' correspondent admits that the talk of parliamentary dishonesty has been heard in Japan for the past fifteen years. Captain Brinkley, who is a good friend of the Japanese, especially of the official class, says, "At moments when the conflict between the Ministry and the Diet was sharp, and when such weapons as suspension, prorogation, or even dissolution could not turn the scale in the former's favour, *Walpolian methods were certainly employed by the men in power*, though so dexterously as to defy accurate estimate."[1] A friend who is a correspondent of one of the leading Japanese newspapers said to me in reference to the *Nitto-jiken:* "If a member of our House of Representatives takes a bribe from a private person or corporation, he is committed to imprisonment, but, if he receive the same from the government he is carefully protected."[2] For, how else can a Ministry independent of the House of Representatives get a parliamentary majority to pass its necessary legislation?

Now there is another interesting point involved in the case of these sugar scandals. I suppose it will seem strange to a Western people that the directors of a corporation controlling a large industry in Japan should seek to establish State ownership of that industry. In Western countries it is almost universal, I believe, for those who own big industries to oppose State ownership, but the contrary is the case in Japan. What is the reason? It is this: In the first place, government interference in Japan is excessive, so that it does little to encourage the private ownership of big industries. In the second place, the government gives too much assistance to large private undertakings or industries in the form of rebate or subsidy, so that the people are still in the habit of depending upon government protection. Besides, when the government has bought up certain industries, such as tobacco, salt, *saké* (spirit), and railways, the owners of these industries have largely profited. This was undoubtedly an inducement to the directors of the Great Japan Sugar

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[1] *China and Japan*, vol. iv. p. 251. The italics are mine, not the author's.

[2] A similar account with some concrete facts is given by a parliamentary reporter; vide *The Taiyo*, March 1, 1909, pp. 77–79.

Company to turn it over to the government. In fact, when a rumour was circulated in January 1906 that the government intended to create a monopoly in the sugar industry, the Company's £5 shares suddenly jumped up to £17.[1] On the other hand, the government likes to buy up, if possible, a large industry, though it declined in this case for some reason or other, because it brings in a more or less permanent revenue. More permanent sources of national revenue mean less trouble in passing the Budget—usually the storm-centre in the Diet—through the House of Representatives, and at the same time more State undertakings mean more business for the government, which means more government officials; and so the position of the bureaucracy is strengthened.

But what are the effects upon the economic development of the country? On this question there is much to be said, but the matter cannot be dealt with now, as it is beyond the scope of this treatise.

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[1] The *Yorozu Choho*, April 19, 1909, p. 2.

CHAPTER IV

ELECTIONEERING

"Now, hail ye, groans, huzzas, and cheers,
So grateful to electors' ears,
Where all is riot and confusion ;
Fraud, friendship, scandal, and delusion ;
Now houses stormed, and windows broken,
Serve as a pastime and a token
That patriots spare not, in their zeal,
Such measures for their country's weal.
Now greeting, hooting, and abuse,
To each man's party prove of use ;
And mud, and stones, and waving hats,
And broken heads and putrid cats,
Are offerings made to aid the cause
Of order, government, and laws.
Now lampoons, idle tales and jokes,
And placards over each and hoax,
While blustering, bullying, and brow-beating,
A little pommelling, and maltreating,
And elbowing, jostling, and cajoling.
And all the jockeyship of polling,
And deep manœuvre and duplicity
Prove all elections fair and free ;
While Scandalum Magnatum's puzzled,
And lawless libel raves unmuzzled."[1]

THE fighting nature of mankind is very much the same everywhere. Darwinians may call fighting a process of natural selection. At any rate, electioneering is a campaign. It is political fighting, in which strategy and tactics are used as on a battlefield. There passion, impulse, and reason are displayed in their acutest form. There one's weakest point, whether in personal matters or in political issues, is made the target of attack ; while one's strongest point, whether money, political principle, or personal character, is used to the utmost advantage by friends and supporters. There human nature is shown stripped of conventionalities. There the fittest or best adapted wins the fight.

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[1] Grego, *History of Parliamentary Elections*, pp. 393, 394.

> "A man, when once he's safely chose,
> May laugh at all his furious foes,
> Nor think of former evil;
> Yet good has its attendant ill;
> A seat is no bad thing—but still
> A contest is the devil."[1]

As a rule, electioneering campaigns can be divided into two kinds : those where the fight rages chiefly round the personality of the candidate, and those contested on the political issues which a candidate or his party advocates.

Mr. Bryce says : "A General Election in England seems better calculated to instruct the masses of the people in the principles as well as practical issues of politics, than the longer and generally hotter presidential contest in America. The average intelligence of the voter (excluding the negroes) is higher in America than in Britain, and his familiarity not only with the pass-words and catch-words of politics, but with the structure of his own government, is much greater. But in Britain the contest is primarily one of programmes and not of persons. The leaders on each side are freely criticised, and most people are largely influenced by their judgment of the Prime Minister, and of the person who will become Prime Minister, if the existing Ministry be dismissed. Still the men are almost always overshadowed by the principles which they respectively advocate, and as invective and panegyric have already been poured for years, there is little inducement to rake up or invent tales against them. Controversy turns on the needs of the country, and on the measures which each party puts forward; attacks on a Ministry are levelled at their public acts instead of their private characters. Americans who watch General Elections in England say that they find in the speeches of English candidates more appeal to reason and experience, more argument and less sentimental rhetoric, than in the discourses of their campaign orators."[1]

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[1] Grego, *History of Parliamentary Elections*, p. 329.

Now why is there this difference? That a political contest in Great Britain is chiefly fought over principles rather than persons, may perhaps be due partly to the fact that "as invective and panegyric have already been poured for many years, there is little inducement to rake up or invent the tales against the personal characters of parliamentary politicians;" but a greater reason, I believe, is that in Great Britain parliamentary candidates can give pledges to their constituencies as to what they will do, if their party is returned with a majority to the House; for a party which has a majority in the House of Commons directs the policy of the State. Hence the voter cares more for the practical issues of politics than for the persons who are to be the instruments in carrying out that policy. But in the United States a candidate for the Presidency, for the Senate, or for Congress, cannot make any definite promises to the constituents, for the elaborate system of checks and balances in the Constitution makes this impossible. Therefore no definite practical issues are ever brought to the front in elections. Neither in the Presidential campaign nor in a Congressional can a majority of votes have any direct bearing upon the legislative matters of the State. This makes the political value of the vote less appreciated by the individual voters in America than in Great Britain. Consequently the ordinary voters get apathetic, while politics becomes a profitable game for professional politicians. So to make an election hot and exciting in order that it may appeal to the passions and the impulses of the people, the professional politicians are always ready to bring forward and give undue prominence to personalities; and there are no clearly defined political issues put in the programmes of the different parties; moreover, one Presidential or Congressional campaign cannot bring any political issue to a definite end, so that the good, honest citizens of the United

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[1] *The American Commonwealth*, 3rd. ed., vol. ii. chap. lxxi. p. 213.

States are inclined to think upon the personal characters of politicians rather than upon vague political issues.

In Japan, as in America, political principles and practical issues are a secondary consideration in an election. The average intelligence of the voter in Japan cannot be said to be lower than that in America; nor is his sense of civic duty weaker. But, as the masses of the people in Japan are very much less instructed in matters of government than in America, the franchise is less appreciated. A vote is not so directly effective in America as in Britain, yet every American citizen knows and feels that the political institutions of the country fundamentally depend upon the votes of the people. Moreover, American people have exercised the franchise for generations. But in Japan parliamentary history does not cover a space of more than twenty years, and the number of elections already held is only ten. Besides, the attention of the voter has never yet been drawn to the importance of the vote. It is true that politicians, publicists, and the Press often speak about the sacredness of the vote. But they talk, so to speak, in the air, for the voter cannot realise the effect of his vote upon the policy of the State. In an election candidates do not push political issues to the front or make any promises to the elector, as they have no chance of fulfilling them, even if a majority in the House of Representatives has the same views. Although the relative power of the House has been considerably increased in the last twenty years, as will be seen from Chapter III. Part III., it can still do very little without the bureaucratic statesmen in power, who are quite independent of the Diet and not responsible to the people. Many people in Japan still fail to clearly understand the *raison d'être* of the Imperial Diet. The officials in the government can and actually do manage the business of the State to a great degree, independently of the Diet; nay, more, they consciously or unconsciously tend to minimise the power of the Diet. How, under such circumstances, is it possible for the masses of the people to realise the political value of the vote?

The vote becomes sacred and precious to its owner, and he would not sell it for pounds, when he realises that it has a direct bearing upon the policy of the State, and, therefore, upon his own interests; and that its illegitimate use may alter the fate of the State. A voter in the East Marylebone electoral district of London informed me one day that he had been a supporter of Lord Robert Cecil and greatly admires his character and ability as a parliamentary politician, but that he could not vote for him in the next General Election, for Lord Robert would not pledge himself to support Tariff Reform. At one of the meetings of the Marylebone Constitutional Union, Lord Robert Cecil said: "If a Unionist government presided over by Mr. Balfour should be in power after the next General Election, and I, being returned for East Marylebone with the support of the Marylebone Constitutional Union, should be unable to support the government on the fiscal question, I will resign my seat and give my constituents an opportunity of expressing their opinion on the question."[1] Thus in Britain the elector votes mainly on political issues, while a candidate is bound to give pledges to his constituents.

It is because the vote in Japan under the present working of the Constitution has no such direct, effective power that it is so lightly treated by many voters. As a matter of fact, it is marketable—that is, it is frequently sold and bought, as it was in the eighteenth century in Great Britain, though perhaps not so extensively. Of course, the transaction is not done openly. By law both the giver and the receiver of a bribe are liable to penalties.[2] It is difficult to say how extensive this corrupt practice is, but it seems quite general. In fact, in certain electoral districts one vote is rated at the value of three or four *yen*.[3] Last year attempts were made by some members in the House of Representatives to revise the Election Law so that an open vote should be substituted for the ballot.[4] The chief argument put forward in favour of the measure was that it would prevent voters from taking bribes from several different persons. Fortunately the measure was defeated, though it had a considerable number of supporters in the House. Had it become law it would have encouraged rather than prevented bribery. It is possible that open voting prevents voters from taking bribes from different people, but there is no doubt that it enables the briber to use his bribe much more effectively. It is not, however, my intention to discuss here the merits and demerits of this measure, but simply to show that corrupt methods are extensively employed at present in Japanese elections.

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[1] Vide *The Times*, June 15, 1909.

[2] The Baishoku-ho (Law No. 37, April 1901), Art. I. II.

[3] The *Kokumin Shimbun*, April 12, 1908, p. 5; April 15, p. 2.

[4] The *Yorozu Choho*, March 5, 1908, p. 1; March 6, p. 1.

It is sometimes said that the shortness of our parliamentary history is one of the leading causes of corruption. It is true that the people in Japan are less experienced and less instructed in matters concerning elections; but it is very doubtful whether or not there exists any but a causal relation between corruption and the length of a country's parliamentary experience. Indeed, corruption in and out of the Diet has much increased in the last few years. During the first three or four years of the constitutional *régime* there was very little corruption. It was not until 1899 that the necessity for preventing corruption was keenly felt. In the thirteenth session of the Diet (1898–99) the government adopted wholesale methods of corruption to secure a majority in the House of Representatives in order to pass their Bill for increased taxation. In consequence a measure to prevent corrupt practices was brought in for the first time during the fourteenth session (1899–1900) by Mr. Ozaki, a member of the Progressive Party, but it was defeated owing chiefly to the opposition of the Liberal Party, then in alliance with the Ministry. In 1901 the *Baishoku-ho An* (Corrupt Practices Act), which prohibits corrupt practices, passed the Diet and became law. But corruption has increased of late in spite of this law.

At the same time the increase in the number of abstentions in parliamentary elections shows that the apathy and indifference of the masses of the people has also increased. In the seventh General Election (1898) the average rate of abstentions per 100 voters was 11.72;[1] in the eighth General Election (1903), 13.79; in the ninth General Election

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[1] **This was the first election held under the revised Electoral Law.**

(1904), 13.94; and in the tenth (1908), 28.56.[1] If less familiarity with constitutional government is the cause of corruption, how is this increase of apathy to be explained? It is apathy which more than anything else leads to corruption and to the growth of the "professional politician."

"Political rings and bosses" are not as yet as well developed in Japan as in America. But there is a tendency towards their growth. Already in some electoral districts there are "professional politicians" who make a trade of politics. In some cases, by controlling a certain number of votes, directly or indirectly, they influence the choice of candidates. Usually they endeavour to put up candidates who can supply large sums for electioneering expenses. In fact, in Japan as in America, the word *Seijika* (politician) is in bad odour; and while in England politicians are proud of calling themselves politicians, in Japan they always avoid using the word. This is largely due to the existence of the "professional politicians," or middle men, who make a trade of politics. Now, suppose that the working of our Constitution was modelled on that of Great Britain, so that the masses at a General Election were well instructed in practical political issues and enabled to see that it is their votes which directly control the formation of a Ministry through the House of Representatives, and so direct the policy of the State, would a voter then sell his vote as easily as a greengrocer sells cabbages? or, would there be much opportunity for the political middlemen?

It is sometimes argued that the absence of keen class struggles in Japan makes the people apathetic in politics. It is true that in Japan there is no such sharp conflict between the poor and the rich as is found in some Western countries, nor is there any bitter religious controversy or racial friction. But there, as elsewhere, many divergencies exist in interests and opinions between the different classes of the people. Moreover, we have many great political problems affecting different classes and different people in different degrees and sufficiently interesting to all, if only we were properly instructed, and our attention drawn to them. But no definite political issues, clearly understandable by the elector, are ever brought forward by the candidates, nor is any pledge ever given. Nay, even in the House of Representatives, there is very little discussion on either great questions or great measures. Most business in the House is conducted in Committee-rooms with closed doors; and Ministers invariably try to avoid any discussion of great questions, and to settle them privately with the leaders of the different parties in the Committee-rooms. Indeed, the government has invented a doctrine called "the principle of *Fugen-jikko,* or practice without discussion." Under such circumstances, how can the masses take any great interest in politics?

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[1] The Shugi-in Jimukioku, Sosenkio Ichiran.

Parliamentary elections in Japan are contested generally by the different parties or by unattached individuals. In the eighteenth century, in England, a Ministry not responsible to the House of Commons strove by corrupt practices to return a majority of its supporters to the House. At the beginning of the constitutional *régime* in Japan, members of the House of Representatives were, generally speaking, more honest, as they hoped to control the Ministry; while the oligarchic statesman in power had not yet introduced corrupt methods. The government, therefore, endeavoured by official interference at the elections to secure a majority in the House for the "Official Party." But, since that time, they have learned various methods for securing a majority within the House whenever it is needed. Usually they win over the largest party in the House, or else they get votes from all parties and factions by corruption. So the Ministry does not now directly contest parliamentary seats, and election contests are left to the political parties.

No party can get into power even if it has a majority in the House. Nevertheless, each party tries with much activity and energy to increase its members in the House. For, a party with a large number of members cannot only influence legislation, but can also make good bargains with the Ministry, and sometimes with certain private corporations.[1]

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[1] In answering my inquiry as to how a party gets its party fund, a prominent Japanese M.P. wrote: "It is the party's secret how the party funds are collected, but I may say that, besides its members' fees, it gets contributions from private people, from corporations, and from various other sources."

How heated and lively the parliamentary elections are may be gathered from the fact that, during the last General Election (May 1908), 2457 persons were charged with unlawful intimidation, threat, violence, or bribery.[1]

In Japan a General Election takes place on the same day throughout the whole country. The date of the election is announced by Imperial Ordinance, at least thirty days beforehand.[2] At seven o'clock A.M. every polling station is opened, and at six P.M. it is closed.[3]

There are 108 electoral districts, of which 57 have one seat each, while the rest have from two to twelve, according to the population. The Governor of each prefecture (*fu* or *ken*) superintends the elections in his administrative district.[4] In the urban districts the mayor of a city or borough acts as "Chairman of the Election"; and in the rural districts, the chief magistrate of a town or village.[5] They appoint three or four electors to act as supervising officers at each polling booth.[6]

For a candidate there is no ceremony of nomination to be performed by a mayor or county sheriff, nor does a candidate himself declare that he will stand. The party to which he belongs, or several groups of his friends or supporters, publicly announce, usually through newspapers, that they recommend such a person as candidate for the coming parliamentary election. Before making this announcement, they, of course, inquire into the qualifications of the prospective candidate, and carefully calculate from data supplied by the canvasser the number of votes he is likely to obtain.

A candidate is, as a rule, a local man. By local man is not necessarily meant a man of local fame, but a "favourite son" of the district. He may be a man of local or national reputation. It is the custom for aspirants to parliamentary seats to go to their native prefectures for election. As has been said in the Introduction, the Japanese are sedentary, and several centuries of feudalism have greatly developed their local affection. In addition, as there are never any clear, definite political issues, it is natural for voters to vote for the candidates most familiar to them. Therefore, in most cases, the favourite sons of a district get the first chance in the elections; and it very seldom happens that a person defeated in one constituency seeks election in another.

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[1] Vide The *Kokumin Shimbun*, June 11, 1908 (Naimushio Chosa).

[2] Election Law, Art. XXVIII.

[3] *Ibid.*, Art. XXXIII.

[4] *Ibid.*, Art. VI.

[5] *Ibid.*, Art. IV.

[6] *Ibid.*, Art. XXXII.

As far as the election is concerned, each prefecture or municipality, that is, each electoral district, is practically independent, just as the different States in America are independent of each other in the Congressional elections. Of course, there is a close connection between the branches of the political parties in a district and their headquarters in Tokyo. But the election in each district is not so directly controlled from the headquarters of the political parties as in Great Britain, where at every parliamentary election the local leaders are in touch with the headquarters of the National Liberal Federation and the National Conservative Union in London. As a rule, the selection of candidates and the actual management of the election are left in the hands of the local organisations, though, if necessary, every possible assistance is given from headquarters.

In Japan, as everywhere else, electioneering is chiefly carried on by speaking, writing, or canvassing; but speaking and writing are very much less employed than in England or America. Election speeches in our country are mostly mere sensational rhetoric, and neither interesting nor instructive. Posters, pamphlets, leaflets, and cartoons are not yet half as extensively employed as in England or America. They are much less humorous and less satirical, and contain fewer political catch-words with reference to practical issues. Therefore, they are much less effective and have little influence.

In political propaganda we make no use of processions with bands, flags, banners, badges, or torches as in America or in England. In elections such demonstrations, indeed, are prohibited.[1] Nor are political speeches frequently made at street corners or in public squares and parks. Most Japanese feel as disgusted with speech-making at street corners as do old-fashioned women in England at the tactics of the militant suffragists.

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[1] Election Law, Art. XCV.

At present our most effective method of electioneering is canvassing; and it is a much more fruitful way of securing votes than propaganda; for most Japanese people have no traditional political bias or prejudice with regard to any particular party. Some Americans will say, "I am a Republican because my father was one"; while certain Englishmen are proud that their family has been Conservative for generations; but among Japanese electors there scarcely exists any traditional party feeling; and this, coupled with the absence of practical issues, makes most electors amenable to the persuasive powers of the canvasser. Moreover, the Japanese are easily moved by sentiment. The frequent visits of canvassers or candidates to individual electors generally produce good results in an election. A member of the House wrote in answer to my inquiry, "One of the most effective means for a candidate to win votes is to make himself well known to the electors. Frequent visits to the electors are most fruitful. In fact, in the urban districts some candidates call five or six times on the electors before a General Election."

But it is not so easy in Japan for the canvasser to bring the apathetic electors, the lame, the halt, and the aged, to the polling station. Law prohibits any one, paid or unpaid, from supplying ships, horses, vehicles, or any means of conveyance for the purpose of carrying voters to the polling booths.[1] Therefore, on election day in Japan there are not, as here in England, such continuous streams of traps, coaches, broughams, and motors, conveying the voters from their houses, shops, or factories to the polling stations. Yet it is not devoid of confusion or excitement, nor even sometimes of violence or rioting.

> "What a wonderful thing's an Election!
> It sets all the people alive;
> And makes them all busy and nimble,
> Like so many bees in a hive.
> 'Tis the nobs learn to be civil,
> And get all their lessons by rote;
> With 'How do you do? Honest friend,
> I'm come to solicit your vote.'"[2]

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[1] Election Law, Art. LXXXVII. sec. 2.

[2] A ballad appeared upon "The Windsor Election" of 1835.

An election in Japan usually costs a successful candidate about 3000 *yen*. This is a very heavy burden, if we consider the resources of most of our parlimentary candidates. In fact, some of them sell their estates in order to obtain an election fund. Yet the seat for which they pay so dearly yields them very little power; some members in the House never take part in a debate during the whole of their parliamentary life, but simply sit and vote as directed by the Whips of their party. The worst part of the bargain, however, is the uncertain length of their parliamentary existence. It is limited to four years, but, at any time, the House may be dissolved at the fiat of the bureaucratic statesmen in power.

Nevertheless, there are always many candidates for seats in the Diet. For this reason, nowhere in the civilised world to-day, as far as I am aware, are the government officials more respected than in Japan. There they are not public servants, but masters of the people, and socially their status is the highest. As a matter of fact, in the rural districts, a policeman, because he is a government official, is more respected than a large landowner. Besides, Japanese people are extremely sensitive to fame and honour. A member of the House is Honourable; he enjoys a social distinction equal to that of high State officials. He is not of the people; he is an M.P. (*Shugi-in Gi-in*). The title "M.P." which he usually attaches to his name is a source of natural pride and gratification, and it also secures him the respect of the people. Even a Minister of State cannot ignore him because of his position and his vote. At social functions he is admitted into the circle of the high officials, which is shut to the people. It is, indeed, this social distinction that constitutes one of the greatest forces drawing men to the House, and so, in spite of its weak political power, we are fortunate in having in the House of Representatives men of comparatively good standing.

APPENDIX

APPENDIX

THE CONSTITUTION

(OFFICIAL TRANSLATION)

CHAPTER I

THE EMPEROR

ARTICLE I. The Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal.

ART. II. The Imperial Throne shall be succeeded to by Imperial male descendants, according to the provisions of the Imperial House Law.

ART. III. The Emperor is sacred and inviolable.

ART. IV. The Emperor is the head of the Empire, combining in himself the rights of sovereignty, and exercises them according to the provisions of the present Constitution.

ART. V. The Emperor exercises the legislative power with the consent of the Imperial Diet.

ART. VI. The Emperor gives sanction to laws, and orders them to be promulgated and executed.

ART. VII. The Emperor convokes the Imperial Diet, opens, closes, and prorogues it, and dissolves the House of Representatives.

ART. VIII. The Emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, Imperial Ordinances in the place of law.

Such Imperial Ordinances are to be laid before the Imperial Diet at its next session, and when the Diet does not approve the said Ordinances, the Government shall declare them to be invalid for the future.

Art. IX. The Emperor issues, or causes to be issued, the Ordinances necessary for the carrying out of the laws, or for the maintenance of the public peace and order, and for the promotion of the welfare of the subjects. But no Ordinance shall in any way alter any of the existing laws.

Art. X. The Emperor determines the organisation of the different branches of the administration, and salaries of all civil and military officers, and appoints and dismisses the same. Exceptions especially provided for in the present Constitution, or in other laws, shall be in accordance with the respective provisions (bearing thereon).

Art. XI. The Emperor has the supreme command of the Army and Navy.

Art. XII. The Emperor determines the organisation and peace standing of the Army and Navy.

Art. XIII. The Emperor declares war, makes peace, and concludes treaties.

Art. XIV. The Emperor declares a state of siege.

The conditions and effects of state of siege shall be determined by law.

Art. XV. The Emperor confers titles of nobility, rank, orders, and other marks of honour.

Art. XVI. The Emperor orders amnesty, pardon, commutation of punishments, and rehabilitation.

Art. XVII. A Regency shall be instituted in conformity with the provisions of the Imperial House Law.

The Regent shall exercise the powers appertaining to the Emperor in his name.

CHAPTER II

RIGHTS AND DUTIES OF SUBJECTS

Art. XVIII. The conditions necessary for being a Japanese subject shall be determined by law.

Art. XIX. Japanese subjects may, according to qualifications determined in laws or ordinances, be appointed to civil or military or any other public offices equally.

Art. XX. Japanese subjects are amenable to service in the Army and Navy, according to the provisions of law.

Art. XXI. Japanese subjects are amenable to the duty of paying taxes, according to the provisions of law.

Art. XXII. Japanese subjects shall have the liberty of abode and of changing the same within the limits of law.

Art. XXIII. No Japanese subject shall be arrested, detained, tried or punished, unless according to law.

Art. XXIV. No Japanese subject shall be deprived of his right of being tried by the judges determined by law.

Art. XXV. Except in the cases provided for in the law, the house of no Japanese subject shall be entered or searched without his consent.

Art. XXVI. Except in the cases mentioned in the law, the secrecy of the letters of every Japanese subject shall remain inviolable.

Art. XXVII. The right of property of every Japanese subject shall remain inviolate.

Measures necessary to be taken for the public benefit shall be provided for by law.

Art. XXVIII. Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief.

Art. XXIX. Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and associations.

Art. XXX. Japanese subjects may present petitions by observing the proper forms of respect, and by complying with the rules specially provided for the same.

Art. XXXI. The provisions contained in the present chapter shall not affect the exercise of the powers appertaining to the Emperor in times of war, or in cases of a national emergency.

Art. XXXII. Each and every one of the provisions contained in the preceding Articles of the present chapter, that are not in conflict with the laws or the rules and discipline of the Army and Navy, shall apply to the officers and men of the Army and of the Navy.

CHAPTER III

THE IMPERIAL DIET

Art. XXXIII. The Imperial Diet shall consist of two Houses—a House of Peers and a House of Representatives.

ART. XXXIV. The Houses of Peers shall, in accordance with the Ordinance concerning the House of Peers, be composed of the members of the Imperial Family, or of the orders of nobility, and of those persons who have been nominated thereto by the Emperor.

ART. XXXV. The House of Representatives shall be composed of members elected by the people, according to the provisions of the Laws of Election.

ART. XXXVI. No one can at one and the same time be a member of both Houses.

ART. XXXVII. Every law requires the consent of the Imperial Diet.

ART. XXXVIII. Both Houses shall vote upon projects of law submitted to it by the Government, and may respectively initiate projects of law.

ART. XXXIX. A Bill, which has been rejected by either the one or the other of the two Houses, shall not be again brought in during the same session.

ART. XL. Both Houses can make representations to the Government as to laws or upon any other subject. When, however, such representations are not accepted, they cannot be made a second time during the same session.

ART. XLI. The Imperial Diet shall be convoked every year.

ART. XLII. A session of the Imperial Diet shall last during three months. In case of necessity, the duration of a session may be prolonged by Imperial Order.

ART. XLIII. When urgent necessity arises, an extraordinary session may be convoked, in addition to the ordinary one.

The duration of an extraordinary session shall be determined by Imperial Order.

ART. XLIV. The opening, closing, prolongation of session and prorogation of the Imperial Diet, shall be effected simultaneously for both Houses.

In case the House of Representatives has been ordered to dissolve, the House of Peers shall at the same time be prorogued.

ART. XLV. When the House of Representatives has been ordered to dissolve, Members shall be caused by Imperial Order to be newly elected, and the new House shall be convoked within five months from the day of dissolution.

ART. XLVI. No debate can be opened, and no vote can be taken in either House of the Imperial Diet, unless not less than one-third of the whole number of the members thereof is present.

ART. XLVII. Votes shall be taken in both Houses by absolute majority. In the case of a tie vote, the President shall have the casting vote.

ART. XLVIII. The deliberations of both Houses shall be held in public. The deliberations may, however, upon demand of the Government, or by resolution of the House, be held in secret sitting.

ART. XLIX. Both Houses of the Imperial Diet may respectively present Addresses to the Emperor.

ART. L. Both Houses may receive petitions presented by subjects.

ART. LI. Both Houses may enact, besides what is provided for in the present Constitution and in the Law of the Houses, rules necessary for the management of their internal affairs.

ART. LII. No member of either House shall be held responsible outside the respective Houses for any opinion uttered, or for any vote given in the House. When, however, a member himself has given publicity to his opinions by public speech, by documents in print or in writing, or by any other similar means, he shall, in the matter, be amenable to the general law.

ART. LIII. The members of both Houses shall, during the session, be free from arrest, unless with the consent of the House, except in cases of flagrant delicts, or of offences connected with a state of internal commotion, or with a foreign trouble.

ART. LIV. The Ministers of State and the Delegates of the Government may, at any time, take seats and speak in either House.

CHAPTER IV

THE MINISTERS OF STATE AND THE PRIVY COUNCIL

ART. LV. The respective Ministers of State shall give their advice to the Emperor, and be responsible for it.

All Laws, Imperial Ordinances, and Imperial Rescripts of whatever kind, that relate to the affairs of the State, require the countersignature of a Minister of State.

Art. LVI. The Privy Councillors shall, in accordance with the provisions for the organisation of the Privy Council, deliberate upon important matters of State, when they have been consulted by the Emperor.

CHAPTER V

THE JUDICATURE

Art. LVII. The Judicature shall be exercised by the Courts of Law, according to law, in the name of the Emperor.

The organisation of the Courts of Law shall be determined by law.

Art. LVIII. The judges shall be appointed from among those who possess proper qualifications according to law.

No judge shall be deprived of his position, unless by way of criminal sentence or disciplinary punishment.

Rules for disciplinary punishment shall be determined by law.

Art. LIX. Trials and judgments of a Court shall be conducted publicly. When, however, there exists any fear that such publicity may be prejudicial to peace and order, or to the maintenance of public morality, the public trial may be suspended by provisions of law or by the decision of the Court of Law.

Art. LX. All matters that fall within the competency of a special Court shall be specially provided for by law.

Art. LXI. No suit at law which relates to rights alleged to have been infringed by the illegal measures of the administrative authorities, and which shall come within the competency of the Court of Administrative Litigation specially established by law, shall be taken cognisance of by a Court of Law.

CHAPTER VI

FINANCE

Art. LXII. The imposition of a new tax or the modification ot the rates (of an existing one) shall be determined by law.

However, all such administrative fees or other revenue having the nature of compensation shall not fall within the category of the above clause.

The raising of national loans and the contracting of other liabilities to the charge of the National Treasury, except those that are provided for in the Budget, shall require the consent of the Imperial Diet.

ART. LXIII. The taxes levied at present shall, in so far as they are not remodelled by a new law, be collected according to the old system.

ART. LXIV. The expenditure and revenue of the State require the consent of the Imperial Diet by means of an annual Budget.

Any and all expenditures overpassing the appropriations set forth in the Titles and Paragraphs of the Budget, or that are not provided for in the Budget, shall subsequently require the approbation of the Imperial Diet.

ART. LXV. The Budget shall be first laid before the House of Representatives.

ART. LXVI. The expenditures of the Imperial House shall be defrayed every year out of the National Treasury, according to the present fixed amount for the same, and shall not require the consent thereto of the Imperial Diet, except in case an increase thereof is found necessary.

ART. LXVII. Those already-fixed expenditures based by the Constitution upon the powers appertaining to the Emperor, and such expenditures as may have arisen by the effect of law, or that appertain to the legal obligations of the Government, shall be neither rejected nor reduced by the Imperial Diet without the concurrence of the Government.

ART. LXVIII. In order to meet special requirements, the Government may ask the consent of the Imperial Diet to a certain amount as a Continuing Expenditure Fund for a previously fixed number of years.

ART. LXIX. In order to supply deficiencies, which are unavoidable, in the Budget, and to meet requirements unprovided for in the same, a Revenue Fund shall be provided for in the Budget.

ART. LXX. When the Imperial Diet cannot be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety, the Government may take all necessary financial measures by means of an Imperial Ordinance.

In the case mentioned in the preceding clause, the matter shall be submitted to the Imperial Diet at its next session, and its approbation shall be obtained thereto.

Art. LXXI. When the Imperial Diet has not voted on the Budget, or when the Budget has not been brought into actual existence, the Government shall carry out the Budget of the preceding year.

Art. LXXII. The final account of the expenditures and revenue of the State shall be verified and confirmed by the Board of Audit, and it shall be submitted by the Government to the Imperial Diet, together with the report of verification of the said Board.

The organisation and competency of the Board of Audit shall be determined by law separately.

CHAPTER VII

SUPPLEMENTARY RULES

Art. LXXIII. When it has become necessary in future to amend the provisions of the present Constitution, a project to that effect shall be submitted to the Imperial Diet by Imperial Ordinance.

In the above case, neither House can open the debate, unless not less than two-thirds of the whole number of members are present, and no amendment can be passed, unless a majority of not less than two-thirds of the members present is obtained.

Art. LXXIV. No modification of the Imperial House Law shall be required to be submitted to the deliberation of the Imperial Diet.

No provision of the present Constitution can be modified by the Imperial House Law.

Art. LXXV. No modification can be introduced into the Constitution, or into the Imperial House Law, during the time of a Regency.

Art. LXXVI. Existing legal enactments, such as laws, regulations, Ordinances, or by whatever names they may be called, shall, so far as they do not conflict with the present Constitution, continue in force.

All existing contracts or orders that entail obligations upon the Government, and that are connected with expenditure, shall come within the scope of Article LXVII.

LIST OF THE MINISTERIAL CHANGES SINCE 1885

LIST OF THE MINISTERIAL CHANGES SINCE 1885

Year of Appointment.	Minister President.	Minister for Foreign Affairs.	Minister of the Interior.	Minister of Finance.	Minister of War.	Minister of the Navy.	Minister of Justice.	Minister of Education.	Minister of Commerce and Agriculture.	Minister of Communications.	Duration: Year and Months.
Dec. 1885	Ito	Inouye	Yamagata	Matsukata	Oyama	Saigo	Yamada	Mori	Tani	Enomoto	2 4
Mar. 1886	......	......	......	......	......	......	......	......	Saigo*	......	......
July ,,	......	......	......	......	......	Oyama*	......	......	Yamagata*	......	......
June 1887	......	......	......	......	......	......	......	......	Tani	......	......
July ,,	......	......	......	......	Saigo	......	......	......	Hijikata	......	......
Sept. ,,	......	Ito*	......	......	......	......	......	......	Kuroda	......	......
Feb. 1888	......	Okuma	......	......	......	......	......	......	......	......	......
April ,,	Kuroda	Okuma	Yamagata	Matsukata	Oyama	Saigo	Yamada	Mori	Enomoto	Enomoto*	1 6
July ,,	......	......	......	......	......	......	......	......	Inouye	......	......
Dec. ,,	......	......	Matsukata*	......	......	......	......	......	......	......	......
Feb. 1889	......	......	......	......	......	......	......	Oyama*	......	......	......
Mar. 1889	......	......	......	......	......	......	......	Enomoto	......	Goto	......
Oct. ,,	......	......	Yamagata	......	......	......	......	......	......	......	......
Oct. ,,	Temporarily, Sanjo	......	......	......	......	......	......	......	Iwamura	......	......
Dec. ,,	Yamagata	Aoki	Yamagata*	Matsukata	Oyama	Saigo	Yamada	Yoshikawa	Mutsu	Goto	1 5

May 1890	......	......	Saigo	......	......	Kabayama	......	......	......	......	......
May 1891	Matsukata	Enomoto	Saigo	Matsukata*	Takashima	Kabayama	Yamada	Yoshikawa	Mutsu	Goto	1 3
June ,,	......	......	Shinagawa	......	......	......	Tanaka	Oki	......	......	......
Mar. 1892	......	......	Soyejima	......	......	......	......	......	Kono	......	......
June ,,	......	......	Matsukata*	......	......	......	Kono	......	Sano	......	......
July ,,	......	......	Kono*	......	......	......	Kono	......	......	......	......
Aug. ,,	Ito	Mutsu	Inouye	Watanabe	Oyama	Nire	Yamagata	Kono	Goto	Kuroda	4 1
Mar. 1893	......	......	......	......	......	Saigo	Yoshikawa	Inouye	......	......	......
Jan. 1894	......	......	......	......	......	......	......	......	Enomoto	......	......
Aug. ,,	......	......	......	......	......	......	......	Saionji	......	......	......
Sept. ,,	......	......	......	......	Saigo*	......	......	......	......	......	......
Oct. ,,	......	......	Nomura	......	......	......	......	......	......	......	......
Mar. 1895	......	......	......	Matsukata	Yamagata	......	......	......	......	Watanaba	......
May ,,	......	......	......	......	Oyama	......	......	......	......	......	......
June ,,	......	Saionji	......	......	......	......	......	......	......	......	......
Aug. ,,	......	......	......	Watanabe*	......	......	......	......	......	......	......
Oct. ,,	......	......	......	......	......	......	......	......	......	Shirane	......
Feb. 1896	......	......	Yoshikawa	......	......	......	......	......	......	......	......
April ,,	......	Mutsu	Itagaki	......	......	......	......	......	......	......	......

Those marked with an asterisk occupied at the time more than one portfolio.

LIST OF THE MINISTERIAL CHANGES SINCE 1885—*continued*

Year of Appointment.	Minister President.	Minister for Foreign Affairs.	Minister of the Interior.	Minister of Finance.	Minister of War.	Minister of the Navy.	Minister of Justice.	Minister of Education.	Minister of Commerce and Agriculture.	Minister of Communications.	Duration: Year and Months.
May 1896	......	Saionji	......	......	......	......	......	......	......	......	......
Aug. ,,	Temporarily, Kuroda	......	......	......	......	......	......	......	......	......	......
Sept. ,,	Matsukata	Okuma	Kabayama	Matsukata	Takashima	Saigo	Kiyoura	Hachisuka	Enomoto	Nomura	1 4
Mar. 1897	......	......	......	......	......	......	......	......	Okuma*	......	......
Nov. ,,	......	Nishi	......	......	......	......	......	Hamao	Yamada N.	......	......
Jan. 1898	Ito	Nishi	Yoshikawa	Inouye	Katsura	Saigo	Sone	Saionji	Ito M.	Suyematsu	— 6
April ,,	......	......	......	......	......	......	......	Toyama	Kaneko	......	......
June ,,	Okuma	Okuma*	Itagaki	Matsuda	Katsura	Saigo	Ohigashi	Ozaki	Oishi	Hayashi	— 4
Oct. ,,	......	......	......	......	......	......	......	Inukai	......	......	......
Nov. ,,	Yamagata	Aoki	Saigo	Matsukata	Katsura	Yamamoto	Kiyoura	Kabayama	Sone	Yoshikawa	1 11
Oct. 1900	Ito	Kato	Suyematsu	Watanabe	Katsura	Yamamoto	Kaneko	Matsuda	Hayashi	Hoshi	— 8
Dec. ,,	......	......	......	......	Kodama	......	......	......	......	Hara	......
May 1901	Temporarily, Saionji	......	......	Temporarily, Saionji	......	......	......	......	......	......	......
June 1901	Katsura	Sone	Uchimi	Sone	Kodama	Yamamoto	Kiyoura	Kikuchi	Hirata	Yoshikawa	4 7
Sept. ,,	......	Komura	......	......	......	......	......	......	......	......	......

Mar. 1902	......	......	......	......	Terauchi	......	......	......	......	......	......
July 1903	......	......	Kodama	......	......	......	......	Kodama	Kiyoura	Sono	......
Sept. ,,	......	......	......	......	......	......	Hadano	Kubota	Kiyoura	Oura	......
Oct. ,,	......	......	Katsura*	......	......	......	......	......	......	......	......
Feb. 1904	......	......	Yoshikawa	......	......	......	......	......	......	......	......
Sept. 1905	......	......	Kiyoura	......	......	......	......	......	......	......	......
Dec. ,,	......	......	......	...	......	......	......	Katsura	......	......	......
Jan. 1906	Saionji	Kato	Hara	Sakatani	Terauchi	Saito	Matsuda	Saionji*	Matsuoka	Yamagata I.	2 6
Mar. ,,	......	Saionji*	......	......	......	......	......	Makino	......	......	......
May ,,	......	Hayashi	......	......	......	......	......	......	......	......	......
Jan. 1908	......	......	......	Matsuda*	......	......	......	......	......	Hara*	......
Mar. ,,	......	......	......	......	......	......	Senke	......	......	......	......
July ,,	Katsura	Komura	Hirata	Katsura*	Terauchi	Saito	Okabe	Komatsu-bara	Oura	Goto S.	......

Those marked with an asterisk occupied at the time more than one portfolio.

Year of Appointment.	1889.	1890.	1891.	1892.	1893.	1894.
President . . .	Count Ito	Count Oki	......	Count Ito	Count Yamagata	......
Vice-President . .	Count Terajima	......	......	Count Soyejima	Count Higashikuze	......
Councillors:—	Viscount Yoshida	......	......	Count Higashikuze	Count Soyejima	......
	Viscount Sano	......	......	......	......	......
	Count Kawamura	......	......	......	......	......
	Mr. Kono	......	......	......	......	Viscount Nor
	Viscount Fukuoka	......	......	......	......	......
	Count Sasaki	......	......	......	......	......
	Count Katsu	......	......	......	......	......
	Count Oki	Count Inouye	......	......	......	Viscount Nir
	Count Higashikuze	Mr. Ozaki	......	......	......	......
	Count Torio	Count Kuroda	......	Viscount Kaieda	......	......
	Viscount Shinagawa	Viscount Hijikata	......	......	......	Mr. Hosokaw
	Mr. Motoda	......	Count Oyama	......	Viscount Enomoto	✠
	Count Soyejima	......	......	Count Terajima	......	......
	Viscount Nomura	......	✠	......	Viscount Kabayama	......
	Count Yoshii	......	✠	......	Viscount Takashima	......
		Viscount Enomoto	......	......	Viscount Tanaka	......
		Viscount Tanaka	......			
		Count Okuma	......			
		Count Yanagiwara	......			

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Printed by BALLANTYNE, HANSON & CO.
Edinburgh & London